

**INVESTIGATION**

**NUMBER:** Log #1056803/U #12-030

**INVOLVED**

**OFFICER #1:** “Officer A” (Chicago Police Officer); Female/Black; 43 years old; On-Duty; Civilian dress; Year of Appointment – 2007

**OFFICER #1’s**

**INJURIES:** None reported

**INVOLVED**

**OFFICER #2:** “Officer B” (Chicago Police Officer); Female/White; 38 years old; On-Duty; In Uniform; Year of Appointment – 2003

**OFFICER #2’s**

**INJURIES:** None reported.

**INVOLVED**

**OFFICER #3:** “Officer C” (Chicago Police Officer); Female/Black; 29 years old; On-Duty; In Uniform; Year of Appointment – 2006

**Officer #3’s**

**Injuries** None reported

**Involved**

**Officer #4** “Officer D” (Chicago Police Officer); Male/Black; 42 years old; On-Duty; Civilian dress; Year of Appointment – 2002

**OFFICER’S**

**INJURIES:** None reported

**SUBJECT:** “Subject 1”; Male/Black; 39 years old

**SUBJECT’S**

**INJURIES:** A total of four (4) gunshot wounds to the right forearm (two (2) through and through); one (1) gunshot wound to the upper right abdomen; one (1) gunshot would to the left flank; and one (1) gunshot wound to the right scrotum; overall total of seven (7) gunshot wounds, non-fatal.

**SUBJECT’S**

**WEAPON:** Glock 17; 9mm semi-automatic pistol; recovered in slide lock position; unknown number of rounds fired. Weapon recovered at 7418 South Wabash Avenue.

**LOCATION:** Incident began at 7435 South State Street. Subject taken into custody at 7422 South Wabash Avenue.

**DATE/TIME:** 04 September 2012 0345 hours

**TIME OF IPRA  
NOTIFICATION:** 0358 hours

**TIME OF IPRA  
RESPONSE:** 0430 hours

## SUMMARY OF INCIDENT

This investigation, in conjunction with the information gained through the investigation launched by the Chicago Police Department, revealed the following:

On 04 September 2012, at approximately 0339 hours, Officer D and A were working Beat 368A. Officers B and C were working Beat 322R. All responded to a call of a suspicious man wearing a mask and a hooded sweatshirt near the Shell Gas Station located at 7453 South State Street. Officers D and A were touring the area in civilian dress in an unmarked Chicago Police squad car when they observed an unknown male now known as the subject, Subject 1, holding an unknown person against a wall in front of J & J Electronics, located at 7433 South State Street. Subject 1 had a handgun in his hand, apparently attempting an armed robbery. Officers D and A stopped their vehicle facing north on State Street, exited their vehicle, announced their office, and ordered Subject 1 to drop his weapon. At that point, the unidentified victim of the attempted robbery<sup>1</sup> ran past Officers D and A.<sup>2</sup> Subject 1 turned towards Officers D and A and discharged his weapon in their direction. Officers D and A discharged their weapons at Subject 1, who then ran north on State Street. Officer D pursued Subject 1 on foot while Officer A returned to their vehicle and used it to pursue Subject 1 north on State Street. Subject 1 repeatedly discharged his firearm in the direction of Officer D while running along the sidewalk, north on State Street. Officer D returned fire while pursuing Subject 1 north on the sidewalk.

Officers B and C, travelling by squad car, were near the corner of 74<sup>th</sup> Street and State Street when they saw Subject 1 discharge his weapon while facing South on State Street. At that time, Subject 1 turned toward the squad car in which Officers B and C were following and discharged his weapon at them. One of the rounds struck the roof of

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<sup>1</sup> The unidentified civilian was never identified in this investigation.

<sup>2</sup> It is unknown whether the attention of Officers D and A was distracted by the intended robbery victim's flight past them.

the squad car. Officer B, who was not able to exit the squad car, fired her weapon at Subject 1 several times from the drivers' seat. Meanwhile, Officer C took cover behind the squad car and fired her weapon several times at Subject 1.

Subject 1 continued to flee running east on 74<sup>th</sup> Street while holding his weapon, a Glock 17 that was later recovered. Officers B and C temporarily lost sight of Subject 1. Other responding officers<sup>3</sup> were in the alley between State Street and Wabash Avenue along the 7400 South block when they heard Subject 1 near the rear of the garage located at 7400 South Wabash. Subject 1 continued running and proceeded South over fences and through the backyards of residences along the 7400 block of South Wabash. Subject 1 then collapsed face down with his hands underneath him on the front porch of XXXX South Wabash Avenue. When Officer E and an unidentified officer approached Subject 1, he refused to comply with the officers' direction to show his hands. In response to Subject 1's non-compliance, Officer E discharged her TASER at Subject 1, striking him. Medical assistance was requested and Subject 1 was then transported via Chicago Fire Department EMS #42 to Christ Hospital in critical condition. Officers D and A located a Glock semi-automatic pistol in slide lock position<sup>4</sup> along with a mask and a hoodie in a gangway between 7418 & 7422 South Wabash Avenue, near where Subject 1 was taken into custody. The identity of the victim of the attempted robbery, who ran past the officers, remains unknown.

## INVESTIGATION:

**The IPRA Preliminary Report and the Major Incident Notification Report** essentially related the same information as reported in the Summary of Incident of this report. (Att. #3)

Unsuccessful attempts were made to interview **Subject 1**. On 12 September 2012, the Reporting Investigator sent Subject 1 and his wife a certified letter requesting their cooperation with this investigation. On 11 November 2012 the letters were returned unclaimed, and a notation indicated that the letters could not be forwarded. On 20 September 2012, the Reporting Investigator made a request to interview Subject 1 through the Cook County Department of Corrections and the Cook County Public Defender's (PD) Office. On 25 September 2012, the Reporting Investigator received a reply from the PD's Office. Subject 1, through his public defender refused to cooperate with this investigation and provide an interview, or discuss the incident with IPRA. As of the date of this summary, neither Subject 1 nor his wife has contacted IPRA. (Att. #59, 61, 71, 72, 73)

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<sup>3</sup> Twenty-nine (29) units responded to the incident, including Beat 332R (Officers F and G) and Beat 368D (Sergeant A, and Officers E and H). Sergeant A was a Police Officer on the date of the incident.

<sup>4</sup> Slide Lock occurs when a weapon's magazine has been emptied and the slide remains locked to the rear until the magazine is changed or the slide is released manually.

According to **Department Reports, General Offense Case Report/Supplementary Report RD #HV-460-181 and Arrest Report CB #18487818**, Subject 1 was arrested on 04 September 2102, at 0343 hours, at 7442 South Wabash Avenue, and charged with several counts of Attempted First Degree Murder, Aggravated Discharge of a firearm, and Armed Robbery. The arresting officers were identified as Officers D and A. The reports also indicate that Subject 1 pointed a handgun and fired it at Officers A, D, C, and B. (Att. # 74, 75)

According to the **Tactical Response Report (TRR)**, completed by Officers B, C, D, and A, Subject 1 did not follow verbal direction, hid on the side of a garage, fled, and pointed a black handgun and discharged it in the direction of Officers B, C, D and A. Officers B, C, D, and A responded with member presence, verbal commands, and the discharge of their firearms. (Att. # 12, 17, 21, 26, 31)

According to the **Tactical Response Report (TRR)**, completed by Officer E, Subject 1 refused to follow verbal directions after being told to surrender by officers after he had discharged his firearm at the officers and was found on a porch at 7422 South Wabash Avenue. Officer E responded with verbal commands, member presence and discharged her TASER to get Subject 1 to comply with her orders. (Att. #, 17)

According to the **Officer's Battery Reports (OBRs)** that were completed on the date, time and location of the incident Officers A and D were in civilian dress investigating the report of a suspicious person. Officers B and C were responding to the same incident and were in uniform. Officer D and A observed Subject 1 holding an unknown person against a wall with a handgun in an apparent attempted armed robbery. Subject 1 then pointed his weapon at Officers D and A, and discharged it. Officers D, A, B, and C did not sustain any injuries. (Att. # 13, 22, 27, 32,)

Sergeant B of the Public Safety Information Technology Unit reviewed available **in-car camera footage** from fourteen (14) responding units. Sergeant B did not retrieve any usable footage from any of the cameras. Detective A inventoried three in-car camera DVDs and when the Reporting Investigator contacted him regarding those DVDs Detective A stated that although he inventoried the disks, there were no visible images on any of the three, the reason for which was unknown. (Att. # 74, 75, 86)

**Video** from surveillance cameras associated with the Maxwell Street Grill located at 7445 South State Street did not capture the incident which occurred just to the north of Maxwell Street Grill. The video depicts several patrons at the establishment running towards the Shell gas station at the moment that gunshots might have rang out. (Att. # 77)

**Video** from surveillance cameras associated with the residence located at 7426 South Wabash did not capture the incident as it occurred. However, the camera did capture a figure walking in the rear of the residence and several Chicago Police vehicles going by in the alley looking for Subject 1. (Att. # 80)

The **Mobile Crime Lab/Evidence Technician Photos, and Crime Scene Video** depict the scene and surrounding area the police involved shooting; the location of recovered evidence; and damage to Chicago Police Department vehicle #7911 in the area. Evidence Technician photographs were not taken of Subject 1 as he had been admitted to Christ Hospital and was undergoing emergency surgery and was in critical condition. (Att. # 81)

The Evidence Technician photos of the scene also depict where Subject 1 was taken into custody at 7422 South Wabash Avenue. Photos and video also depict a black handgun a Glock 17; 9mm Semi-Automatic pistol, and a costume mask identified to be in Subject 1's possession near where he was taken into custody at 7418 South Wabash Avenue in a recessed stairwell.

The **OEMC and PCAD reports** were collected and made part of this case file. An analysis of said documents shows them to be generally consistent with the facts as related by the involved and witness officers. Attempts to locate additional independent witnesses were made to no avail. (Att. #42, 43, 44, 44, 45, 46, 47, 48, 49)

**IPRA Investigators conducted a canvass**, in an attempt to locate additional witnesses and evidence. Additional information was not discovered. It should be noted that there is no physical or testimonial evidence that refutes the statements provided by the involved officers. (Att. # 41)

The **Chicago Fire Department Ambulance Report from 04 September 2012, 0352 hours**, documented that Subject 1 was located lying on the ground with several gunshot wounds to his right forearm (through and through), the upper right abdomen and to his left flank and right scrotum. The ambulance report also documented that Subject 1 was combative when EMS personnel arrived on the scene. Subject 1 was transported to Christ Hospital. (Att. # 8, 9)

**Medical Records from Christ Hospital and Medical Center** document that Subject 1 suffered from four gunshot wounds to his upper and lower right and left side (flank, midsection, and forearm), and scrotum. (Att. #64)

**Medical Records from Stroger Hospital of Cook County** document that Subject 1 was transferred there after his condition was stabilized and remained at Stroger in the custody of the Cook County Department of Corrections. (Att. # 66)

**Illinois State Police Forensic Science Center/Chicago (ISPFSCC) Laboratory Reports** document the examination of the recovered firearms evidence under Lab Case #C12-036659. The recovered weapon from the area of 7422 South Wabash Avenue, near where Subject 1 was taken into custody (hereinafter "Subject 1's weapon"<sup>5</sup>), was tested by the Latent Fingerprint Section and no prints suitable for comparison were found. The

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<sup>5</sup> Discovered by Officer D in a basement/gangway stairwell at 7418 South Wabash (along with the cap/mask, latex gloves, and black hooded sweatshirt Subject 1 had worn) during the pursuit of Subject 1. These items were secured by Officer D.

Firearms Section processed a total of fifty one (51) items of fired evidence<sup>6</sup> for this incident. The locations and related evidence are documented below:

**7433 South State Street**

- Three (3) expended cartridge casings determined to have been fired from the subject, Subject 1's weapon;
- Two (2) expended cartridge casings determined to have been fired from Officer A's weapon;
- Eleven (11) expended cartridge casings determined to have been fired from Officer D's weapon.

**7429 South State Street**

- Five (5) expended cartridge casings determined to have been fired from the subject, Subject 1's weapon.

**7401 South State Street (Front)**

- Seven (7) expended cartridge casings determined to have been fired from the subject, Subject 1's weapon.

**7401 South State Street (alley)**

- Four (4) expended cartridge casings determined to have been fired from Officer D's weapon.

**2 East 74<sup>th</sup> Street**

- Eight (8) expended cartridge casings determined to have been fired from Officer C's weapon;
- One (1) expended cartridge casing determined to have been fired from Officer B's weapon.

**7402 South Wabash Avenue**

- Two (2) fired bullets bearing characteristics of have being fired from Officer D's weapon.

**7422 South Wabash Avenue**

- Eight (8) expended cartridge casings determined to have been fired from Officer B's weapon.

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<sup>6</sup> Forty nine (49) fired cartridge casings and two fired bullets.

All officers' firearms were tested and found to be in proper working condition. Unfired cartridges were tested for caliber and type only. Subject 1's weapon was also test fired and entered into the IBIS database and no related cases were discovered.

Based on officer statements, the evidence suggests that the cartridge casings recovered from 7433 S. State Street and 7429 S. State Street are associated with the first volley of fire between Subject 1 and Officers A and D. The cartridge casings recovered from 7401 S. State Street are associated with the second round of shots fired between Subject 1 and Officer D. Lastly, the cartridge casings recovered from 2 East 74<sup>th</sup> Street, 7402 South Wabash Avenue, and 7422 South Wabash Avenue are associated with the third round of shots fired by Officers C and B at Subject 1.

The Biology/DNA Section processed a **DNA swab** obtained from the recovered weapon but the profile was not suitable to be entered into the DNA database. A **buccal standard** was obtained from Subject 1, and swabs were taken from the skull costume mask/baseball type cap found near him, when he was taken into custody. Test results indicated Subject 1 "cannot be excluded" from the human male profile that was identified. Approximately 1 in 66,000 Black, 1 in 88,000 White, or 1 in 43,000 Hispanic unrelated individuals could not be excluded from having contributed to the human male DNA profile found on the mask. The recovered weapon was swabbed for DNA, and a profile was identified as being from at least one contributor. The profile was incomplete and not suitable for comparison or entry into the DNA data base. (Att. #88, 91, 93, 94, 95, 96, 98)

**Court Documents** and a report from the **Illinois Department of Corrections** (IDOC) about the disposition of the criminal case against Subject 1 were obtained. Said documents reflect that the case against Subject 1 concluded and that Subject 1 was found guilty via trial on 23 July 2015 of several counts of attempted murder, aggravated discharge of a firearm, and one count each of a convicted felon possessing a firearm and aggravated UUV with a firearm with a previous conviction. Subject 1 was sentenced to life in prison without parole on 14 October 2015.

**In his statement given to IPRA on 04 September 24, 2015, Witness 1**, stated that he was at work as a cashier at the Shell Gas Station located at 7453 South State Street, when he observed a male coming to the store from out of the alley wearing a mask (undescribed type). Witness 1 stated that he phoned 911 using the store phone and the person wearing the mask ran back to the alley to the east of the gas station. Witness 1 stated that, about an hour later, he heard several gun shots from the direction of Maxwell's restaurant and people ran toward the Shell Gas Station located at 7453 South State Street. Witness 1 did not witness the police involved shooting. (Att. # 55)

**On 04 September 2012**, at Area Central, **Detective A interviewed** Witness 2 who was in Chicago visiting her cousin Witness 3, from Montgomery Alabama. According to Witness 2, she and her cousin Witness 3 had stopped to get something to eat at the Maxwell Street Grill at 75<sup>th</sup> and State Street when she observed a male in a costume mask and a hoodie standing against a fence near Maxwell Street Grill and she

felt uneasy. Witness 2 related that she and Witness 3 got into line to order their food when they heard someone say that he (Subject 1) has a gun. Witness 2 stated that she saw Subject 1 facing east standing near the chain link fence. Witness 2 stated that she told her cousin Witness 3 that someone had a gun, and they should leave. Witness 2 recalled she heard several gunshots, and ran Southbound towards the Shell gas station. Witness 2 stated that they heard several more gunshots and when they returned to Witness 3's vehicle which was parked in front of J & J Electronics they found shell casings on her vehicle. Witness 2 learned that her cousin, Witness 3's , vehicle was part of the crime scene. (Att. #75)

**During an interview with Detective B, Unit 610 at Area Central,** Witness 3 related that she and her cousin Witness 2, who was visiting from Alabama, had stopped for something to eat at the Maxwell Street Grill. Witness 3 stated that she saw a male dressed in all black clothing looking back and forth down the street. Witness 3 related that an unmarked Chicago Police squad car pulled up, and everyone in line began to leave. Witness 3 stated that a female officer exited the vehicle from the passenger side and yelled and pointed her weapon at the male subject now known as Subject 1. Witness 3 stated that she saw Subject 1 point a gun at the officers and fire his weapon at the officers. Witness 3 stated that the officers fired back, and Subject 1 ran north on State Street still firing at the officers. Witness 3 related that she, her cousin and several others ran towards the Shell gas station at 75<sup>th</sup> and State Street. After the gunshots stopped Witness 3 stated that she and her cousin returned to get their food and noticed that her vehicle had shell casings in it which was parked in front of J & J Electronics. (Att. # 75)

**During an interview with Detective A at Area Central,** Witness 4 gave facts that Detective A described as inconsistent with facts of the incident that had already been established. Video surveillance from the Maxwell Street Polish restaurant verified that Witness 4 did not arrive at the scene until after the officer-involved shooting had occurred. Witness 4 was shown the video and re-interviewed. At that time he admitted that he did not actually witness any portion of the shooting. He explained to detectives that he was a part-time security guard and only wanted to become involved in the investigation. (Att. # 75)

**During an interview with Detective C, Unit 610 at Area Central,** Witness 5 stated that he lives at 7422 South Wabash with his girlfriend. Witness 5 stated that they had been in the bed asleep when they were awakened by gunshots near their home. Witness 5 related that he heard between six (6) and nine (9) gunshots and a brief silence and then a second set of between four (4) to six (6) gunshots. Witness 5 stated that he looked out the rear window of his home and saw several Chicago Police Officers standing in the alley behind his home with flashlights shining into his backyard. Witness 5 then stated that he called 911 to report the gunshots that he heard. Witness 5 stated that he looked out the front door of his residence and saw a black male lying on his porch with Chicago Police Officers standing around him but that he did not recognize the black male. Witness 5 stated that one of the officers told him to close the door. Witness 5 stated that he called 911 again, and the dispatcher told him that the police would be in contact with him. Witness 5 further related that he did not know Subject 1 and had never seen



him prior to the date of the incident. Witness 5 related that officers later returned to his home and informed him of the incident involving Subject 1. (Att. # 75)

**During an interview with Detective A at Area Central,** Witness 6 stated that he was homeless and squatting in the vacant building near 75<sup>th</sup> and State Street and did not know that there was a police involved shooting nor did he witness anything related to the incident. (Att. # 75)

**The Synoptic Report, prepared by Sergeant C, #1778, Unit 121, regarding the Weapons Discharge with Hits,** documents that on 04 September 2012, at approximately 0355 hours, Sergeant C was notified of a weapons discharge involving 003rd District officers. At approximately 0747 hours, Sergeant C and Sergeant D of Unit 121 arrived at Area Central Detective Division and began the twenty minute observation periods of Officers D, A, C, and B. All involved officers were individually presented with the Notice of Alcohol and Drug Testing Following a Firearm Discharge Incident Form. All officers submitted to both Blood Alcohol Content tests and drug tests. All Blood Alcohol tests and drug test results were negative. (Att. # 82)

**In her statement to IPRA on 05 September 2012, Involved Officer A** stated that she and Officer D were assigned to Beat 368A in civilian dress and an unmarked Chicago Police squad car. Officer A stated that Officer D was driving north on State Street when they monitored a call of a suspicious person in the vicinity of 7400 South State Street wearing a hoodie and a mask that was running through the alley just east of State Street. According to Officer A, as they approached the corner of 74<sup>th</sup> and State Street, they saw an unknown person now known as Subject 1 in front of J & J Electronics located at 7433 South State Street.

Officer A stated she and Officer D observed Subject 1 holding a handgun and pointing it at an unknown civilian. Officers A and D exited their vehicle, announced their office and ordered Subject 1 to drop his weapon. In response, Subject 1 discharged his weapon at the two officers. Officer A and Officer D returned fire; Officer A fired two rounds. Subject 1 began to flee on foot and Officer D pursued him on foot. Officer A did not fire any more rounds because as Officer D began to chase Subject 1, Officer D came into Officer A's line of fire. Officer A returned to the squad car and began to follow Officer D and Subject 1.

At 74<sup>th</sup> and Wabash Avenue, Officer A stopped the squad car and exited, joining Officer D. Subject 1's flight path continued into the west alley between Wabash Avenue and State Street, and then jumping over fences and running through the rear yards of residences along the 7400 South block of Wabash Avenue. According to Officer A, Officer D repeatedly demanded that Subject 1 drop the weapon while taking cover behind a fence and a tree. Officer A heard several more shots, then a fence rattling as if someone was attempting to scale it. Officer A stated that several more units arrived at the scene, and Subject 1 was taken into custody at 7418 South Wabash Avenue.

According to Officer A, she discharged her weapon twice, and she was unsure of how many times her partner Officer D discharged his weapon. Officer A stated that there were several people standing near the corner of 75<sup>th</sup> and State Street and in front of Maxwell's restaurant when she and her partner drove past and first observed Subject 1 and the attempted robbery victim. However, after the shooting, no one came forward with information about the incident. According to Officer A, as she approached 7422 South Wabash Avenue, she could hear unknown officers yelling at Subject 1 to show his hands several times. Then she observed officers take Subject 1 into custody. Officer A stated further that, as she was walking through the gangway near 7422 South Wabash Avenue where Subject 1 was taken into custody, she observed the hoodie, mask, and a weapon in the "slide lock" position near the rear porch area of 7422 South Wabash Avenue. (Att. # 15)

**In his statement to IPRA on 05 September 2012, Involved Officer D** provided an account of the incident that was generally consistent with that provided by Officer A. However, Officer D provided the following additional information. According to Officer D, he and Officer A gave verbal commands directing Subject 1 to drop his weapon. Officer D stated that Subject 1 discharged his weapon at him and Officer A and that they both returned fire. Subject 1 then fled north on State Street towards 74<sup>th</sup> Street. According to Officer D, when he neared 74<sup>th</sup> and Wabash Avenue he saw Subject 1 in a gangway between two houses, pacing back and forth. Officer D told Subject 1 to show his hands. Subject 1 did not comply and Officer D discharged his weapon three more times in the direction of Subject 1. Subject 1 continued to flee, jumping over fences in the rear yards. However, Subject 1 was found again pacing back and forth between two houses. The next time Officer D saw Subject 1 he was in police custody. Officer D did not see any officer discharge a TASER at Subject 1. (Att. # 30)

**In her statement to IPRA on 05 September 2012, Involved Officer C** stated that she and Officer B were assigned to beat # 322R in full uniform, facing westbound on 74<sup>th</sup> Street when they heard loud reports of gunfire in the immediate area. Officer C notified OEMC of gunfire in the area. Officer C observed Subject 1 discharging his weapon at Officers A and D, who were just south of her location on State Street. Officers C and B had responded to the area because of an earlier call of a suspicious person wearing a black hoodie and a mask. Officer C heard Officer D yelling that a subject was running to the corner or was at the corner. Officer C heard Officer A announce over the radio that shots were fired at the police. After Officer C exited her vehicle, Subject 1 saw her and began running eastbound on 74<sup>th</sup> Street. As he ran, Subject 1 discharged his weapon in Officer C's direction. Officer C returned fire until her weapon went into slide lock. Officer C did not recall how many times Subject 1 discharged his weapon at her. According to Officer C, when her weapon went into slide lock, she reloaded, and her partner Officer B was discharging her weapon from the driver's seat of their squad car. Officer C did not recall how many rounds Officer B had fired at Subject 1.

Officer C stated one of the shots fired at her and Officer B hit the roof of their squad car. Officer C re-entered the squad car and Officer B began to drive, pursuing Subject 1 south on Wabash Avenue. Officer C observed Subject 1 in a gangway between

two houses from the corner of 74<sup>th</sup> and Wabash Avenue. Officer C recalled that she saw Subject 1 run west towards State Street when he made a left turn and began to jump over fences going south on South Wabash Avenue through several yards. Officer C reported over the radio that the subject was going west. Officer C and Officer B entered their vehicle and went South on Wabash Avenue to East 75<sup>th</sup> Street around to the west alley between South Wabash Avenue and South State Street stopping in front of 7422 South Wabash Avenue. After Officers C and B arrived at the gangway, Officer C heard shuffling in the gangway near some bushes and heard officers demanding that Subject 1 stop and put the weapon down. After the shouting stopped, Officer C saw and heard the officers shouting for Subject 1 to show his hands. Officer C heard officers yell at Subject 1 to get down. According to Officer C, when Subject 1 did not comply with the officers' demands to show his hands, Officer E discharged a TASER, striking him. (Att. # 35)

**In her statement to IPRA on 05 September 2012, Involved Officer B** gave account of the incident similar to that provided by her partner, Officer C. According to Officer B, she and Officer C spoke to an attendant at the Shell gas station about a call of a suspicious person wearing a mask and a hoodie. Shortly thereafter, she and her partner left the station in their squad car and proceeded down the alley at 74<sup>th</sup> Street, between Wabash and State. Officer B and her partner heard gunshots, and then heard a "10-1" call over the radio about shots fired at and by the police. Officer B recalled that the dispatcher stated that officers were in pursuit of an offender, northbound toward Officer B and Officer C. Moments later, Officer B saw Subject 1 at the corner of 74<sup>th</sup> and State Street. According to Officer B, Subject 1 was firing a weapon in a southerly direction towards South State Street. At that moment, Officer B's squad car was stopped near the intersection of 74<sup>th</sup> Street and South State Street. Neither she nor her partner had a clear view down State Street. Officer C then saw Subject 1 turn and point his weapon in their direction.

According to Officer B, because she was in fear for her life, she discharged her weapon at Subject 1 from the drivers' side window of their squad car. Officer B stated she thought she had discharged her weapon seven to eight times but was unsure of the exact number. Officer B stated that Officer C had exited their vehicle and took a defensive position at the rear of the vehicle, and she could not see what Officer C was doing but could hear Officer C discharge her weapon. Officer B saw Subject 1 flee eastbound on East 74<sup>th</sup> Street while continuing to discharge his weapon at her and Officer C several times. (Att. # 25)

**In her statement to IPRA on 05 September 2012, Involved Officer E,** stated that she was assigned to Beat #368D with Officer H and Sergeant A on the burglary mission team. Officer E stated that they were in civilian dress in an unmarked squad car. Officer E was the rear passenger, Sergeant A was the driver, and Officer H was in the front passenger seat. According to Officer E, the officers heard a radio call of 10-1 "shots fired at and by the police" in the area of 74<sup>th</sup> Street and South Wabash Avenue. Officer E stated that upon reaching the location, she and Officer H and Sergeant A exited their vehicle and began to search for the offender in the yards near 7422 and 7418 South Wabash Avenue when she observed Subject 1 on the porch of 7422 South Wabash

Avenue with several officers on the porch demanding that he show his hands and attempting to take him into custody. Officer E stated that several of the officers were tugging at Subject 1's hands in an attempt to handcuff him and to see if he still had a firearm. According to Office E, she pulled out her TASER, and as the officers stepped back, she discharged the TASER at Subject 1, striking him. Officer F handcuffed Subject 1 and after that Subject 1 was taken to the hospital. Officer E remained and guarded the crime scene. (Att. # 20)

**In his statement to IPRA on 05 September 2012, Witness F** stated that he was assigned to Beat # 322R working with Officer G, when they had monitored a call of shots fired at and by the police in the vicinity of 74<sup>th</sup> and South Wabash Avenue. Officer F stated that they positioned themselves at the alley between Wabash Avenue and State Street at 74<sup>th</sup> Street; Officer F later heard shuffling near some bushes, and began to look around when he heard officers yell "let me see your hands" several times. Officer F stated that he observed Subject 1 on the porch at 7422 South Wabash Avenue with his hands beneath him. Officer F stated that he handcuffed Subject 1 after Officer E discharged her TASER at him. (Att. # 38)

#### **CONCLUSION AND FINDING:**

This investigation found that the use of deadly force by **Officers A, B, C, and D** was 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, Deadly Force 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 or she will endanger human life or inflict great bodily harm unless arrested without

delay.”

On 04 September 2012, at approximately 0339 hours, Officers D, C, B, and A responded to a call of a “suspicious person with a gun” call. During their investigation, the involved officers came in contact with Subject 1, who was in the process of committing an armed robbery of an unknown person.

Officer A reported that she and Officer D responded to a call of a suspicious person wearing a hoodie and a mask. Upon arriving at the location in question, Officers D and A observed Subject 1 holding an unknown individual at gunpoint. Officers A and D exited their vehicle, announced their office and ordered Subject 1 to drop his weapon. Subject 1 began to flee on foot, firing his weapon three times at Officers A and D as he did. Officer A discharged her weapon twice at Subject 1 and Officer D discharged his weapon eleven times, at Subject 1. Officer A then held her fire because as Officer D pursued Subject 1 on foot, Officer D began to come into Officer A’s line of fire. Based on the totality of circumstances, Officer A’s and Officer D’s use of deadly force was objectively reasonable. Both officers reasonably believed there was imminent risk of death or bodily injury because Subject 1 had fired shots in their direction. Witness 3 saw Subject 1 fire at the two officers. A black Glock 17 9mm semi-automatic pistol was recovered near where Subject 1 was taken into custody. According to testing conducted by the Illinois State Police, three shell casings that were associated with that firearm were found near where Officer A discharged his weapon at Subject 1.

After this initial round of gunfire, Subject 1 continued to flee from the officers who followed, Officer D on foot, and Officer A in the police vehicle. During that pursuit, Officer D next encountered Subject 1 in a gangway between two houses, his hands not visible. Officer D ordered Subject 1 to show his hands and Subject 1 did not comply. Officer D discharged his weapon again at Subject 1 who fled yet again. Based on the totality of the circumstances, Officer D’s use of deadly force when he next encountered Subject 1 was also objectively reasonable. Officer D had pursued Subject 1 on foot and had no reason to believe that Subject 1 no longer had the firearm he had used seconds before. Because Subject 1 continued to attempt to evade arrest and was refusing to respond to verbal commands, Officer D was reasonable in the belief that Subject 1 continued to represent an imminent threat of death or bodily injury.

According to Officer C, she and Officer B heard gunfire and reported it to OEMC. Officers C and B were aware of an earlier call of a suspicious person wearing a black hoodie and a mask. Officer C then observed Subject 1 firing a weapon in a southerly direction<sup>7</sup> and heard a report over police radio that shots had been fired at the police. Officers C and B encountered Subject 1 and as Officer C exited their vehicle, Subject 1 fired his weapon seven times at her with one round striking the roof of the squad car. Officer C then discharged her weapon eight times at Subject 1. Based on the totality of the circumstances, Officer C’s use of deadly force was objectively reasonable. Officer C had seen Subject 1 fire a weapon. Officer C was aware that someone in the vicinity had

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<sup>7</sup> Which Officer C later learned was where Officers A and D were located.

fired shots at the police, and Officer C knew that officers were in pursuit of a person wearing a black hoodie and a mask. Officer C was reasonable in her belief that Subject 1 presented an imminent risk of death or bodily harm. Approximately 6-8 shell casings associated with Subject 1's firearm were recovered in the area where Officers C and B encountered Subject 1. Moreover, photographs of the officers' vehicle show the damage caused by Subject 1's gunfire.

Officer B also responded to Subject 1's threat by discharging her weapon from her position in the driver's seat of the squad car. Officer B's use of deadly force was also objectively reasonable under the circumstances. Officer B saw Subject 1 firing a weapon at an unknown target after which he then turned and began firing in the direction of Officers B and C's squad car. Officer B returned fire through the driver's side window of her vehicle from the driver's seat. Subject 1 fled on foot, firing his weapon again at Officers B and C as he did.

Based on the totality of the facts and circumstances, the Reporting Investigator finds that an officer with similar training and experience as Officers A, D, C, and B, would reasonably believe that Subject 1 posed an immediate threat to his/her safety.

On 04 September 2012, between 0344 hours and 0356 hours, Officer E, Sergeant A, and H responded to a call of a "10-1" referring to shots fired at and by the police in the area of 7400 South Wabash Avenue. When they arrived, they, along with other responding units began to search for the offender now known as Subject 1. Officer E encountered Subject 1 on a porch at 7422 South Wabash Avenue as several officers were attempting to place Subject 1 in handcuffs. According to Officer E, she deployed her TASER at Subject 1 at 7422 South Wabash Avenue because he failed to obey the verbal commands of officers attempting to take him into custody as he lay on the porch with his hands underneath him. The evidence shows that Subject 1 was an active resister and an assailant who had discharged his weapon several times at Officer D, A, B, and C. When Officer E came into contact with Subject 1, he was lying face down, and his hands were not visible.

Officer E heard several assisting officers order Subject 1 to show his hands. Officer E observed that Subject 1 failed to comply with the officers' demands, and then stiffen his body. In reaction, and believing that Subject 1 still posed a threat to her and her fellow officers, Officer E deployed her TASER striking Subject 1. Subject 1 was taken into custody without further incident. Based on the totality of circumstances, Officer E was reasonable in the belief that Subject 1 continued to represent an imminent threat of death or bodily injury to her and other officers present because he refused to show his hands. Therefore, Officer E's TASER discharge was not an excessive use of force.