

INDEPENDENT POLICE REVIEW AUTHORITY
Log #1060844 / U #13-010

INVESTIGATION

NUMBER: Log #1060844 / U #13-010

INVOLVED

OFFICER #1: "Officer A" (Chicago Police Officer); Male/White; 41 years old;
On-duty; Not in uniform; Year of Appointment -- 1997

OFFICER'S

INJURIES: Non-fatal minor injury

SUBJECT#1: Male/Black; 31

SUBJECT#1

INJURIES: Deceased

LOCATION: 1907 W. 171st Street, Hazel Crest, IL

DATE/TIME: 19 March 2013 at approximately 2103 hours

TIME OF IPRA

NOTIFICATION: 2220 hours

ALLEGATIONS:

On 19 March 2013 at 2220 hours, Independent Police Review Authority (IPRA) Intake Aide documented that Chicago Police Department Deputy Chief A, reported that Chicago Police Officer A, while conducting a surveillance at 1905 W. 171st Street, East Hazel Crest, Illinois, discharged his weapon at a subject, Subject 1, after Subject 1 drove a vehicle at Officer A. Subject 1 was dead on arrival at Ingalls Hospital, Harvey, Illinois.

It is alleged by IPRA Investigator A that on 19 March 2013, at approximately 2150 hours, in the vicinity of 1905 W. 171st Street, East Hazel Crest, Illinois; Police Officers Daniel A, assigned to Unit 018:

1. disobeyed the Chicago Police Department's use of deadly force policy by discharging his weapon and striking, Subject 1 without justification; and
2. disobeyed the Chicago Police Department's use of deadly force policy in that he fired into a moving vehicle without justification.

APPLICABLE RULES AND LAW

General Order (G.O.) 03-02-03, DEADLY FORCE:

II. DEPARTMENT POLICY

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- 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 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, or 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.
- B. Firing at or into a moving vehicle is only authorized to prevent death or great 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.

and

IV. AFFIRMATION OF PROTECTION OF LIFE POLICY

Sworn members will not unreasonably endanger themselves or another person to conform to the restrictions of this directive.

SUMMARY OF INCIDENT:

On 19 March 2013, a Mission Team from Area Central Unit 610, who had been investigating robberies of Radio Shack Stores throughout Chicago and surrounding suburbs traveled to East Hazel Crest, Illinois to conduct surveillance of subjects believed to be involved with those robberies.

Sgt. A and Officer Daniel A were surveilling a house located at 1905 W. 171st Street, believing that an offender (Subject 1) resided there. After several hours of surveillance at the address, several subjects (one now being known as Subject 1) arrived at and entered 1905 W. 171st Street. A short time later Subject 1 exited the address with his girlfriend Citizen 2 and walked toward his white SUV which was parked adjacent to the address. Intending to detain Subject 1, Sgt A and PO A approached the white SUV in their covert vehicles while it was still parked and stopped parallel to the SUV facing oncoming traffic. PO A approached the front of the vehicle and Sgt. A approached the rear. Both officers stated that they announced their office and Subject 1 proceeded to enter his vehicle along with Citizen 2. PO A stated that Subject 1 revved the engine and drove the vehicle at him. PO A discharged his weapon striking Subject 1 once. Subject 1

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continued to drive for several blocks coming to a stop on 167th and Wood Street. Responding members of the Mission Team arrived at the vehicle of Subject 1 and found him unresponsive. Paramedics were called and Subject 1 was transported to Ingalls Hospital, where he was pronounced dead.

INVESTIGATION:

A **Preliminary Investigation Report** was submitted by Independent Police Report Authority (IPRA) Investigator B. On 19 March 2013, at approximately 2230 hours, Inv. B was assigned to respond to a police involved shooting that occurred at 1905 W. 171st Street, East Hazel Crest, Illinois. While at the scene, Chicago Police Department Deputy Chief A, told Inv. B that Officer A and Chicago Police Department detectives and supervisors from area Central were assigned to a mission team tasked with investigating armed robberies of Radio Shack Stores and mobile phone stores in Chicago and the surrounding suburbs. On the night of 19 March 2013, Officer A and Sergeant A detailed to Unit 610, were surveilling a residence at XXXX W. 171st Street. They observed three individuals, including Subject 1, exit the residence. Officer A observed Subject 1 and his girlfriend, Citizen 2, enter a white SUV. Officer A, driving a covert vehicle, pulled up and stopped at an angle next to the SUV. Officer A announced his office to initiate a stop and exited his vehicle. Subject 1 responded by accelerating the white SUV towards Officer A. Officer A stepped backwards into the side of the covert vehicle and discharged his weapon from his hip area, three to four times, in the direction of Subject 1. Officer A believed that Subject 1 was struck by at least one of those discharges. Subject 1 drove his vehicle eastbound on 171st Street to Wood Street and turned northbound onto Wood Street. He continued to drive to 167th and Wood Streets before the vehicle came to a stop. When Officers arrived at the stopped vehicle, Subject 1 did not respond and was believed to be dead. After paramedics arrived, they transported him to Ingalls Hospital in Harvey, Illinois where he was pronounced DOA. Citizen 2 was taken into custody and driven to the Area. No weapons recovered from Subject 1 or the white SUV.¹ (Attachment 4)

Original Case Incident Report RD #HW199528 and **Case Supplementary Reports** RD #HW199528 and #HW199330 reflect that Subject 1 was a robbery suspect, and the offender in an aggravated battery (using a motor vehicle) of a protected employee. Both cases were exceptionally closed.²(Attachments 60-62)

Original Case Incident Report RD #HW199431 and **Arrest Report** (CB #18619366) of Citizen 1 reflect that while on surveillance, Lt. A observed Citizen 1 enter and leave a residence (presumed to be XXXX W. 171st Street, the home that Subject 1 shared with Citizen 2) with possible proceeds from a robbery. Citizen 1 was taken into custody by other officers. At the time of his arrest, Citizen 1 reportedly had a small amount of suspected cannabis and a bag of cell phones, which police believed had been stolen. (Attachments 28-29)

¹ Deputy Chief A stated that proceeds from the robberies were recovered.

² In certain situations, elements beyond law enforcement's control prevent the agency from arresting and formally charging the offender. When this occurs, the agency can clear the offense *exceptionally*.

Original Case Incident Report RD #HW201491 reflects that Citizen 1 was found in possession of two LG phones, which were previously reported as stolen by T-Mobile. (Attachment 32)

Officer A's **Tactical Response Report** reflects that Subject 1 did not follow verbal directions and attacked Officer A by driving the SUV into the direction of Officer A with force likely to cause death or great bodily harm. Officer A reported that he responded with his presence, verbal commands, and a firearm. Officer A also reported that he fired four shots from his 9 mm semi-automatic pistol in the direction of Subject 1 at a distance of less than five feet. (Attachment 12)

Officer A's **Officer's Battery Report** reflects that Officer A suffered a non-fatal minor injury after Subject 1 struck him with a vehicle. (Attachment 13)

The **South Cook County EMS Report** (#9848057), from the employees assigned to Bud's Ambulance #9, documents that Subject 1 was found unresponsive with no pulse and blood on his face in the driver's seat of his vehicle. It also indicates that Subject 1 had a single hole in the left shoulder blade area. The EMS employees transported Subject 1 to Ingalls Hospital. (Attachment 18)

The **East Hazel Crest (EHC) Police Department Offense Report** (Local Report #13ELR000206 and Incident #6-13-00112) contains two narratives. The narrative dated 19 March 2013 at 2149 hours by EHC Officer B documented that CPD officers were conducting surveillance when subjects arrived home after committing an armed robbery. Officer Stevens's report goes on to say that the subjects confronted the CPD officers and one of the subjects was shot and apprehended at 168th and Wood streets. Officer B secured the home while CPD Officers attempted to get a search warrant.

The narrative dated 20 March 2013, at 1227 hours by EHC Officer C documented that he responded to a call of shots fired and learned that there had been an aggravated battery to a Chicago Police Officer at 171st Street in East Hazel Crest and that Officer C secured the scene. (Attachment 22)

CPD Event Query #1307807769 documented that on 19 March 2013, at 1410 hours, Beat 5162 was out on a mission. Beat 5105 notified the officers on the mission that a Cricket Store, located at Harlem and North Avenue in Chicago, was robbed by three black males, who drove a brown Park Avenue car with a loud muffler.

At 2116 hours, three black males carrying a large bag were observed entering a house under surveillance by the mission team. The lights were on in the second floor of the house. At 2144 hours, a white car fled from the house and was stopped at 166th and Wood Street in East Hazel Crest. The event also notes that that an officer shot a person at 17100 S. Lincoln in East Hazel Crest. (Attachment 40)

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Property Inventory Reports #12859431, #12859444, and #12859446 include the following items recovered from Citizen 1: cannabis, seven miscellaneous cell phones with chargers, and a plastic bag with LG cell phones, miscellaneous chargers and batteries (Attachment 33)

Crime scene photographs show, among other evidence, the deceased Subject 1 with an apparent bullet wound, and Officer A dressed in a black vest with a name tag and a police star on right side of his belt. The picture of Officer A also shows him wearing a hooded winter coat, blue jeans, gym shoes, and a cap with words “MERCYHURST HOCKEY.”

Photographs of the 2007 white Chevrolet Trailblazer show a broken driver’s side door mirror and damage to the front driver’s wheel area. Bullet hole damage is visible: on the passenger’s side rear hatch just below rear windshield wiper in the back of middle seat on passenger’s side; in the back of the front passenger’s headrest; on the side of the front passenger’s headrest; and on the side of the headrest behind the driver and also on the side of the Trailblazer. The window behind the driver’s seat and the rear door window behind driver’s seat were both broken by bullets. Evidence Marker #10 shows a fired bullet imbedded in the passenger side door armrest.



Photographs of the covert police vehicle show a tan GMC minivan with small, white scratches on the driver’s side front bumper and damage to driver’s side view mirror.



Evidence Markers #s 1, 2, 3, and 4 show expended bullet cartridges: in front of the driver’s side tire, on the driveway, under the minivan behind the driver’s side area, and on the driver’s seat.

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There are also photographs of a maroon Nissan Sentra parked in front of 1905 W. 171st Street and images of the buildings at 1905-1909 W. 171st Street. (Attachment 23)



Search Warrant #13SW5265 was executed by Area #1 detectives on 20 March 2013, at 0600 hours, at 1905 W. 171st Street.² No contraband or evidence related to the armed robberies was recovered. (Attachments 56-57)

Property Inventory Reports listed five credit/debit cards (Inv. #12859484) and \$5,700.00 U.S.C. (Inv. #12859500) seized from 1905 W. 171st Street. (Attachments 58-59)

During a **canvass** of the area on 20 March 2013, IPRA investigators found two individuals who appeared to be intoxicated who said they witnessed the incident. However due to the appearance of intoxication an interview was not conducted. These individuals were identified as Witness 1 and Witness 2 who live at XXXXX S. Winchester, East Hazel Crest, Illinois. During interviews conducted with these witnesses conducted in person, both witnesses denied having observed the incident.³

Witness 3, XXXX W. 171st Street, East Hazel Crest, Illinois, stated that he witnessed the incident but declined to give a statement at that time because he was headed out to conduct some personal business. (Attachments 5-8)

The **Report of Postmortem Examination** by Dr. 1 on 19 March 2013 documented there was a gunshot wound to Subject 1's upper back, approximately 7" to the left of the midline of the back. That bullet entered at a slight downward angle. Dr. 1 recovered a fired round lodged in the skin of Subject 1's chest above the right collarbone. Dr. 1 found the cause of death was a gunshot wound to the back and the manner of death was homicide. (Attachments 9, 75)

A **federal lawsuit** (Case #1:13CV02277) was filed in the United States District Court of the Northern District of Illinois Eastern Division by the children and special administrator of the estate of Subject 1. The suit alleged that one of Police Officers John Doe 1-3 shot Subject 1 without just cause or provocation. The suit consists of five counts: excessive force, battery, wrongful death, a survival action, and the family expense act.⁴(Attachment 38)

² The search warrant address on the documents entered into C.L.E.A.R. is 1705 W. 171st Street.

³ During a subsequent personal visit by IPRA investigators, the Taylors denied that they had witnessed the incident.

⁴ The Law Suit was settled in February 2016.

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Citizen 2 was interviewed on 20 March 2013 at 1905 West 171st Street. Citizen 2 stated that on 19 March 2013 between 2100 and 2200 hours, she and her boyfriend, Subject 1, left their apartment (1905 West 171st Street, Apartment 2) to get food. As they were walking to their white SUV, Citizen 2 noticed a car parked down the street facing them with its headlights on and shining in their direction.⁵ As Subject 1 walked toward the front of their SUV, the taillights of the green SUV illuminated and the green SUV sped towards them. A big brown van was speeding behind the green SUV.

Citizen 2 was getting in the front passenger door, as Subject 1 was getting into the driver's door, which enabled her to look through their white SUV and for a split second she could tell that the driver of the green SUV pulling up next to them was a white male.⁶ A darker male "hopped" out of the brown van with something in his hand. Citizen 2 never heard the darker male or anyone else say they were the police nor did they show any identification. Since they did not know who they were, Subject 1 tried to "get away."⁷ Since there was barely enough room for their white SUV to drive between the brown van and a red car parked in front of them, Subject 1 sideswiped one of the vehicles in order to exit the area. Citizen 2 stated, "So Subject 1 puts the car in drive, boom heard the first shot. He peels off and it all happen quick like boom, boom, boom. He [Officer A] peels off more shots as we're driving past the guy in the brown van."⁸ The back window on the driver's side of the white Trailblazer they were in was shot out.

Their white Trailblazer began to slow down as Subject 1 announced, "Babe, I'm shot."⁹ Citizen 2 took the steering wheel, began to honk the horn, and operated the accelerated pedal until she saw blue lights behind her. Then she applied the brake and stopped on Wood Street. Citizen 2 was surrounded by police officers, handcuffed, and subjected to an impromptu interrogation by one officer. Ten minutes later, an ambulance arrived for Subject 1. (Attachments 20-21, 46-47)

Witness Sergeant A was interviewed on 20 March 2013 at Area Central. Sgt. A stated that one or two weeks prior to 19 March 2013, he was one of a group of Chicago and suburban police officers assigned to an armed robbery pattern involving cell phone stores. These officers were given information on suspects, which included the addresses of residences. On 19 March 2013, following the robbery of a cell phone store in Norridge, Lt. A directed Sgt. A, Detective A, and Officer A to set up a surveillance at 1905 W. 171st Street, East Hazel Crest, Illinois. A black SUV was observed leaving that address and was stopped by other officers assigned to the pattern. Since that vehicle contained possible proceeds from the cell phone store robberies, Detective Sgt. A radioed or called Sgt. A and told him to try to secure the residence at XXXX W. 171st. Street. Detective A and Officer A announced on the radio that three subjects left the residence

⁵ Citizen 2 described the green SUV as "rundown" with no plates.

⁶ A neighbor (Witness 1), who told Citizen 2 he witnessed the incident, stated that the white male in the green SUV asked Subject 1, "What's up man?" That neighbor, now known to be Witness 1, told the Reporting Investigator that neither he nor his son witnessed the incident.

⁷ Citizen 2, page 10, lines 23-24, and page 11, lines 1-3.

⁸ Id., page 11, lines 19-22.

⁹ Id., page 12, line 23.

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and walked quickly in the direction of a white SUV. Sgt. A, who drove a green Bravada, passed Officer A's location and pulled up almost parallel to 1907 W. 171st Street. A person, now known as Subject 1, who looked like one of the robbery suspects was seen getting into the white SUV. Sgt. A, with his window down, said to Subject 1, "Whoa, Whoa,"¹⁰ while Sgt. A attempted to exit the green Bravada. Subject 1 responded by getting into the white SUV and slamming the door. Sgt. A yelled "Police. Police," but before Sgt. A was able to exit his vehicle Subject 1 revved the engine and drove off at an extremely high speed.

Sgt. A heard a crash and knew that Subject 1 struck another vehicle. Immediately thereafter, Sgt. A heard two or three gunshots. Sgt. A did not know that Officer A had pulled up behind Sgt. A. Sgt. A did not know where the gunshots came from until Officer A told Sgt. A that Officer A fired on the white SUV.

Sgt. A then saw what appeared to be Det. A's Malibu driving after the white SUV. Officer A began to make notifications via cell phone or radio while Sgt. A helped Officer A secure the scene.

Officer A told Sgt. A that Officer A was struck by the white SUV. Officer A appeared to be fine. Sgt. A learned later that Officer A had been struck on the arm. (Attachments 17, 36)

Witness Sergeant B, was interviewed at IPRA on 9 April 2013. On 19 March 2013, Sgt. B was assigned to East Hazel Crest to investigate a robbery pattern of Radio Shack Stores. As part of that role, Detectives B and C were assigned to Sgt. B. At approximately 2350 hours, Sgt. B was approximately three to four blocks away from 1905 West 171st Street, in a covert Ford Fusion, as directed by Lieutenant A. Lieutenant A instructed Sgt. B and Detectives B, D, and E by CPD radio to stop a large SUV driven by "an Arab subject" who had parked and picked up something at 1905 West 171st Street. Sgt. B and the others arrested the driver of that SUV, a subject now known as Citizen 1, and transported him to approximately 170th and Wood Street to be interviewed. As Citizen 1 was being questioned by Detectives B and C, Sgt. B heard a voice on his police radio saying word to the effect of "he's moving, he's moving" and then Sgt. B heard shots being fired.¹¹ In response, Sgt. B activated his emergency equipment and drove westbound on 170th St. When Sgt. B arrived at approximately 170th St. and Wood St., he observed a white SUV coming to a stop when Sgt. B drove up behind it Sgt. B observed a female passenger, now know as Citizen 2, exit the SUV. The young lady screamed, "He's been shot, he's been shot."¹² The male driver, now know as Subject 1, who was bleeding and soon succumbed to his injuries. Sgt. B requested paramedics and relocated to 1905 West 171st Street. (Attachments 48-49)

Witness Detective A, Star #21781, was interviewed at IPRA on 9 April 2013. Det. A was assigned, on 19 March 2013 to conduct surveillance in East Hazel Crest on

¹⁰ Sgt. A, page 15, lines 8 and 9.

¹¹ Sgt. B, page 31, lines 9-10.

¹² *Id.*, page 52, lines 22-23.

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subjects suspected of committing armed robberies of cellular phone stores. Det. A was on mobile surveillance, in a covert Chevrolet Malibu, in the vicinity of 1905 W. 171st Street. Det. A noticed there were no street lights at that location. At some point, Officer A informed Sgt. A and Det. A by radio that the three of them had been directed to secure the residence at 1905 W. 171st Street. As Det. A was driving westbound on 171st Street, he saw the headlights of a parked vehicle (now known to be a white SUV) pulling away from 1905 W. 171st Street, when he heard shots fired. The white SUV sped past Det. A eastbound on 171st Street and turned northbound as Det. A made a U-turn and followed. Det. A flashed his emergency lights and honked his horn until the white SUV stopped after traveling approximately a mile. Det. A commanded the female passenger to exit the white SUV and to get on the ground. Det. A stated, "She [Citizen 2] opened and closed the door a couple of times and she was screaming, uh, you – you shot my baby."¹³ She ultimately complied with Det. A's command. Det. A heard other officers who arrived on the scene request an ambulance. When Citizen 2 was secured in a police vehicle, Det. A went to 1905 W. 171st Street and helped to secure the crime scene. (Attachments 48, 51)

Witness Sergeant C was interviewed on 27 August 2013 at Area Central. Sgt. C stated that on 19 March 2013, following a robbery in the suburbs that was consistent with a robbery pattern of Radio Shack and cell phone stores, he was directed by Lt. A to go to East Hazel Crest and monitor activity at 1905 W. 171st Street. Pursuant to that assignment, Sgt. C was one of the officers who arrested Citizen 1 at 16625 S. Wood Street. While Sgt. C was interviewing Citizen 1, he received a call from the Hazel Crest Police Department, informing him that they were receiving calls of shots fired in the vicinity of 1905 W. 171st Street. Sgt. Dowd then observed a white SUV stopped in the middle of 167th or 168th and Wood Street. Sgt. C drove to the location of the white SUV and observed a female, now known as Citizen 2, seated in a squad car. Sgt. C had a 20 to 30 second conversation with Citizen 2 at which time Citizen 2 told Sgt. C that she was not injured, but that she believed that someone had been run over, and her boyfriend, now known as Subject 1, had been shot in the head. Sgt. C requested an ambulance and blocked off the street until an ambulance arrived. Sgt. C then received a call from Officer A, informing Sgt. C that Officer A fired shots. Sgt. C asked Officer A if he was okay, to which Officer A responded by saying, "Yeah. I'm not hurt."¹⁴ Sgt. C went to 1905 W. 171st Street, made notifications to Operations Command, and helped secure the crime scene, while a search warrant for the residence was being obtained. Several hours later, Sgt. C helped in executing the search warrant. (Attachments 64, 66)

Witness Detective D was interviewed on 03 September 2013 at IPRA. Det. D stated that on 19 March 2013, he and his partner, Det. E, were directed by a sergeant to travel to Hazel Crest, Illinois, and to remain in that area in case they were needed by surveillance officers who were monitoring a residence located at 1905 W. 171st Street. When surveillance officers gave a description of a black SUV that left 1905 W. 171st Street, Det. D stopped the vehicle and arrested Citizen 1. After Citizen 1 was placed in another police vehicle, Det. D responded to another call of a vehicle (the white SUV) leaving 1905 W. 171st Street. Det. D encountered the white SUV where it had stopped,

¹³ Officer A, page 25, lines 1-3.

¹⁴ Sgt. C, page 27, lines 16-17.

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and he observed a man bleeding (Subject 1) and a female (Citizen 2) in the car with him. From there, Det. D was directed to go to 1905 W. 171st Street. Several hours later, Det. D assisted executing the warrant. (Attachments 67-68)

Witness Detective E was interviewed on 04 September 2013 at IPRA. Det. E stated that on 19 March 2013, he and his partner, Det. D, received a call, directing them to travel to Hazel Crest, Illinois, and to remain in an auto repair shop's parking lot in case they were needed by surveillance officers who were monitoring a residence located at 1905 W. 171st Street. Det. E's activities differed somewhat from those of his partner, Det. D. When the black SUV was stopped, Det. E did not assist in the arrest of Citizen 1. Det. E only observed Citizen 1's arrest, but never exited his Chevy Monte Carlo. After returning to the auto repair shop, Det. E heard police radio communications about several gun shots and a suspect vehicle driving away from 1905 W. 171st Street. Det. E followed other police vehicles to 167th and Wood Street where he observed an unresponsive male (Subject 1) in the driver's seat of a white SUV and a female (Citizen 2) handcuffed on the ground. Citizen 2 was placed in the car with Det. E until other detectives arrived and took custody of her. Det. E was then reassigned to the hospital where Subject 1 was taken. (Attachments 71-72)

Witness Detective B was interviewed on 03 September 2013 at IPRA. Det. B stated that on 19 March 2013, he and his partner, Det. C, was contacted by Sgt. B and directed to travel to Hazel Crest and wait for further instructions. Once there, Sgt. B instructed them to stop a black SUV and transport a male (Citizen 1) who was placed under arrest. While Citizen 1 was confined in their vehicle, Dets. B and C heard a call on the police radio of a police-involved shooting and responded to the scene. Det. B assisted in removing a hysterical female (Citizen 2) from a vehicle while Det. C remained in their vehicle with Citizen 1. Eventually, Det.'s B and C returned to CPD Area Central. Det. B was never at 1905 W. 171st Street, does not know Officer A, and did not witness the police-involved shooting. (Attachments 69-70)

Witness Detective C was interviewed on 09 September 2013 at IPRA. Det. C stated that on 19 March 2013, he and his partner, Det. B, was contacted by Sgt. B and directed to travel to Hazel Crest and wait further instruction. They met Sgt. B in Hazel Crest and were instructed to watch a house and wait for a brown sedan with a loud muffler and several male occupants to arrive. Later, they were redirected to go to 171st and Wood. While at 171st and Wood Street, they received a radio order from Lt. A to stop a black SUV. Det.'s C and B assisted Dets. D and E in stopping the SUV and arresting Citizen 1. About 10 to 15 minutes later, there was a radio call to stop a white SUV. Det. C went to the scene where the white SUV was already under police control, but Det. C remained in his vehicle with Citizen 1. Eventually, Det.'s B and C returned to CPD Area Central. Det. C was never at 1905 W. 171st Street and did not witness the police-involved shooting. (Attachments 74, 76)

Witness Lieutenant A, Area Central, was interviewed at IPRA on 10 September 2013. Lt. A stated that on 19 March 2013, he was investigating a robbery pattern involving Radio Shack Stores. Police had gathered enough information to determine that

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Subject 1 and brother, who reside at XXXX W. 171st Street, East Hazel Crest, Illinois, were suspects in the robberies. Following the robbery of a Radio Shack Store in Norridge, Illinois earlier on 19 March 2013, Lt. A ordered two teams to establish surveillances near 1905 W. 171st Street. in East Hazel Crest and on Halsted Street in nearby Markham, where another suspect resided. At approximately 2350 hours, Lt. A and Sgt. C were watching the house on 171st Street, when they observed a dark-colored SUV park in the driveway. The driver, who appeared to be Arabic or Hispanic, exited the vehicle and entered the residence at XXXX W. 171st Street. Shortly after that observation, a white SUV with two or three African American males arrived and entered the same residence. Lt. A observed one of the African American males holding what appeared to be a duffle bag. Lt. A stated that police knew from gathered intelligence that once Subject 1 and his brother were in possession of stolen phones they sold them to an individual known as "the Arab." When the Arab looking individual, now known as Citizen 1, exited the residence, he entered his vehicle, and drove eastbound. At Lt. A's order, detectives stopped Citizen 1 for a field investigation and found him in possession of a bag of cell phones. Lt. A and Sgt. C left 1905 W. 171st St. and went to the location where Citizen 1 was stopped. Another team took over as primary surveillance of 1905 W. 171st Street. While Lt. A was speaking to Citizen 1, he heard reports on the police radio that Subject 1 exited the residence. Lt. A heard the gunshots due to his location shortly after receiving word that the surveillance teams were approaching Subject 1. Lt. A and Sgt. C responded by driving back to 1905 W. 171st Street. As they were driving to the scene, Lt. A saw the white SUV driving away from the scene and followed it. Once the vehicle came to a stop, Subject 1 was identified as the driver. Police could tell that he had been shot and CPD dispatch was notified and an ambulance was called, but Subject 1 died at the scene.

Lt. A returned to the scene of the shooting at 1905 W. 171st Street. Sgt. A told Lt. A that Subject 1 exited the residence and was walking toward his vehicle when police officers announced their office and said they wanted to talk to him. Subject 1 disregarded their announcement, entered his vehicle, and attempted to run an officer over with his vehicle. (Attachment 86)

Accused Police Officer A was interviewed on 03 October 2013 at IPRA. According to Officer A, he worked with the Area Central Mission Team on 19 March 2013. He worked without a partner and drove a covert tan GMC SUV. Sgt. A directed him to go to Hazel Crest and set up surveillance at 1905 W. 171st Street because individuals who lived at that address may have been involved in two armed robberies that just occurred earlier that evening.

Officer A watched 1905 W. 171st Street from a few streets west of that location. During his surveillance, Officer A saw a white SUV arrive and numerous individuals get out and walk into the house. He also observed a black SUV arrive and heard over the police radio that an individual got out of the black SUV and went into the house. Officer A did not see the black SUV leave 1905 W. 171st Street, but he received information, via phone or radio, that the black SUV had been stopped and stolen cell phones had been recovered. Officer A then received information from Sgt. C that a search warrant for

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XXXX W. 171st Street would be obtained, and the house should be secured by the whole team. Approximately two to three hours later, Sgt. A told Officer A, “Leave your point of surveillance and park on location right in front of the residence on the street in front of the residence.”¹⁵

The white SUV was parked on 171st Street, an east/west street, and Officer A was parked on a north/south street facing the residence. Officer A observed three subjects leaving the residence and informed Sgt. C, who told him to secure the people that were leaving. When Officer A relayed that message to Sgt. A, Sgt. A drove around Officer A’s vehicle and stopped parallel to the white SUV, facing in the opposite direction. Officer A followed Sgt. A and stopped behind him. The engine of the white SUV was running. Officer A heard Sgt. A say “Police” numerous times as Officer A was getting out of his car to walk to the passenger side of the white SUV. Officer A stated, “I yelled police numerous times myself.”¹⁶ Officer A then stated, “The white SUV came at me at a high rate of speed directly in my direction.” Officer A turned and ran back toward and into the side of his own vehicle. The white SUV struck the side mirror of Officer A’s vehicle and Officer A’s right arm. Officer A stated, “It was more like a glance; it was light, there was no pain involved.”¹⁷ Officer A was not injured.

Officer A stated that there was enough space for the white SUV to pass by his vehicle without striking it. However, Officer A said, “... when he pulled from the curb he came in a sharp direction to his left, directly in my direction. I fired my weapon at the moving vehicle because the vehicle was coming in my direction. I was in fear [for] my life. I thought the vehicle was going to strike me.” I fired my weapon after the vehicle struck my vehicle.”¹⁸ Officer A fired his weapon four times. Officer A then went to Sgt. A and told him that he had just shot at the vehicle. He also radioed Sgt. C and informed him that he had shot at the vehicle. Officer A stated that he did not believe that he was supposed to prevent anyone from leaving the residence. Officer A then explained, “I was assisting Sgt. A. It was his order and Sgt. C’s order to stop these individuals and talk to them.”¹⁹(Att. 80)

CONCLUSION:

The Reporting Investigator (R/I) recommends that **Allegation #1** against Police **Officer A** be classified **Sustained** in that Officer A disobeyed the Chicago Police Department’s use of deadly force policy by using deadly force against Subject 1 without justification. Pursuant to the CPD Deadly Force policy, “[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 to prevent death or great bodily harm to the sworn member or another person.” The policy further states that:

¹⁵ *Id.*, page 17, lines 13-15.

¹⁶ *Id.*, page 25, lines 23.

¹⁷ *Id.*, page 27, lines 19-20.

¹⁸ *Id.*, page 29, lines 9-19.

¹⁹ *Id.*, page 33, lines 17-19.

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“[f]iring at or into a moving vehicle is only authorized to prevent death or great 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.

It is undisputed, that Subject 1 possessed no weapon other than the vehicle he was driving. Thus, there are two questions here: (1) whether it was reasonable for Officer A to believe that Subject 1 drove his vehicle to direct deadly force at the officer, and (2) whether Officer A had the opportunity to move out of the vehicle’s path as an alternative to using his firearm.

Sgt. A, who was wearing plainclothes and driving a covert SUV, stopped next to Subject 1’s car and was only able to utter “whoa, whoa” before Subject 1, slammed his car door shut. Officer A, who was also wearing plainclothes and driving a covert mini-van, stopped behind Sgt. A and in a position to make it difficult for Subject 1’ SUV to leave its parked position. According to Citizen 2, she heard neither officer announce their office, and Subject 1, fearing that they were about to be the victims of a robbery attempt, accelerated the car forward in an attempt to escape. According to Sgt. A, before he could say his next words, “Police, Police,” or get out of his vehicle’s door, Subject 1’s was speeding away.

Although there is no physical evidence that can definitively establish where Officer A was positioned when he fired, the evidence photographs suggest that Subject 1’s drove his vehicle directly at or into Officer A’s vehicle. The evidence photos show damage to the driver’s side front bumper and driver’s side mirror of Subject 1’s car. Therefore, it is possible that Officer A could have placed himself in a position in which it was reasonable for him to believe that Subject 1’s vehicle was being used as deadly force against him. As outlined above, there was a red car parked in front of Subject 1 SUV that prevented Subject 1 from escaping by driving directly forward. As depicted in the photos from the scene, Officer A had parked his car at a diagonal and facing the opposite direction of Subject 1’s SUV. This left a space of approximately 11 feet between the rear driver’s side of Officer A’s car and the rear of the red car through which Subject 1 made his escape. According to Officer A, he exited his vehicle with his gun in his hand and yelled “police” at the occupants of the vehicle. He observed the vehicle as it pulled from the curb and drove directly at him. Officer A claims that the vehicle unnecessarily drove dangerously close to his vehicle because he believed there was ample room for Subject 1’s white SUV to travel through the opening between Officer A’s car and the parked red car without having to hit either one. Evidence photographs show that Subject 1’s white SUV hit the front driver’s side bumper of Officer A’s car, then knocked off the driver’s side-view mirror as it pulled away from the curb and out from in between the two parked cars.

According to Officer A, he started firing his weapon because “I was in fear of my life. I thought the vehicle was going to strike me.” Moreover, Officer A clearly stated that he fired his weapon *after* Subject 1’s vehicle struck his vehicle. This is consistent

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with Sgt. A's account, who recalled hearing a crash followed by two or three shots. Officer A also claimed that Subject 1's vehicle lightly grazed the officer himself.

The ballistics evidence supports that Officer A fired four shots. Based on the evidence photographs, it is clear that three of the four shots hit Roger's white SUV. The evidence photographs support that there was one shot fired into the rear passenger window on the driver's side and one shot fired into the rear cargo window on the driver's side. However, the photographs also show a bullet hole in the rear of the white SUV on the passenger side. Photographs also show holes in the vehicle that indicate that bullet's path of travel on the passenger side of the car.

The medical examiner's report documents that Subject 1 died from a gunshot wound to the back.

The photographs of Subject 1's vehicle documenting the bullet entries combined with the fact that Subject 1 died from a bullet wound to his back suggest that Officer A fired at least two of the four shots when Subject 1's vehicle was not directed at the officer but rather as the vehicle was passing by the officer. Moreover, one of the four shots was clearly fired when the officer was standing to the rear of Subject 1's vehicle. By Officer A's own admission, he did not start firing until the car had already hit his vehicle. Even if the first shot fired by Officer A was taken when the car appeared to be coming directly at the officer, the shot fired into the rear of the vehicle was clearly taken when the vehicle was no longer a threat, and therefore, was not in conformity with the policy regarding the use of deadly force because, at that time, Officer A was not in imminent threat of harm.

Based on the totality of the circumstances, although Officer A may have been justified in firing at Subject 1's vehicle when it initially pulled away from the curb in Officer A's direction, the photographs of Subject 1's vehicle show that the final shot was clearly fired after the vehicle had pulled away from Officer A and no longer posed a threat. Although every assessment of the use of force, must reflect the fact that officers must make split-second decisions. Based on all the evidence, an officer with similar training and experience would have recognized that Subject 1's vehicle no longer constituted a threat and would have ceased shooting when the car pulled away.

G.O. 03-02-03, Deadly Force, directs that a sworn member is also justified in using force likely to cause death or great bodily harm when he or she reasonably believes that such force is necessary 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, or 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.

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Here, there was no intent to arrest Subject 1, or anyone else in the vehicle. According to Officer A, he had been instructed to detain the occupants of Subject 1's white SUV. More specifically, when asked why had attempted to stop the white SUV from leaving, Officer A responded that he was following Sergeant A's order to "stop these individuals and talk to them." There was no basis for Officer A to reasonably believe that any of the occupants of the vehicle were attempting to prevent an arrest because they had committed or had attempted to commit a forcible felony. In fact, the evidence suggests Subject 1 may not have known that the men who approached his car were police officers who wanted to talk to him. There was no arrest warrant for Subject 1 or probable cause to arrest him. There were no weapons or contraband on Subject 1's person or in his SUV. To be sure, there were no weapons or cellular telephones found in Subject 1's apartment, XXXX W. 171st Street, 2nd Floor, when the search warrant was executed. Therefore, Officer A's use of deadly force was not justified on this basis.

FINDINGS:

Accused #1

Police Officer A, Unit 018

Allegation #1

Sustained – Violation of Rule 6, "Disobedience of an order or directive, whether written or oral" in that on 19 March 2013, at approximately 2150 hours, at 1905 W. 171st Street, East Hazel Crest, Illinois, Police Officer A violated the Chicago Police Department's use of deadly force policy by using deadly force against Subject 1 without lawful justification.

Allegation #2

Sustained – Violation of Rule 6, "Disobedience of an order or directive, whether written or oral" in that on 19 March 2013, at approximately 2150 hours, at 1905 W. 171st Street, East Hazel Crest, Illinois, Police Officer A violated the Chicago Police Department's use of deadly force policy by firing into a moving vehicle without justification.