

INVESTIGATION**NUMBER:** Log #1073693 / U #15-002**INVOLVED****OFFICER #1:** "Officer A" (Chicago Police Officer); Male/Hispanic; 46 years old; On-duty; Not in uniform; Year of Appointment -- 1999**OFFICER'S****INJURIES:** Non-Fatal; Minor Injury**INVOLVED****OFFICER #2:** "Officer B" (Chicago Police Officer); Male/White; 44 years old; On-duty; Not in uniform; Year of Appointment -- 1995**OFFICER'S****INJURIES:** None reported**WITNESS****OFFICER #1:** "Officer C" (Chicago Police Officer); Male/White; 33 years old; On-duty; Not in uniform; Year of Appointment -- 2005**OFFICER'S****INJURIES:** None reported**WITNESS****OFFICER #2:** "Officer D" (Chicago Police Officer), Male/Black; 35 years old; On-duty, Not in uniform; Year of Appointment -- 2006**OFFICER'S****INJURIES:** None reported**SUBJECT#1:** Male/Black; 33**SUBJECT#1****INJURIES:** Gunshot wounds to the left flank**LOCATION:** 310 W. 115th Street**DATE/TIME:** 07 February 2015 at approximately 1436 hours**TIME OF IPRA****NOTIFICATION:** 1447 hours

INTRODUCTION:

On 7 February 2015, Officer A and Officer B fired their weapons at Subject 1, as Subject 1 was attempting to flee from them in his Lincoln Aviator. The ensuing IPRA investigation shows that the officers' use of deadly force was in violation of Chicago Police Department Policy.

ALLEGATIONS:

It is alleged that on 07 February 2015, at approximately 1436 hours, at the location of 310 West 115th Street, **Officers A and B:**

1. Fired their weapons upon Subject 1 without justification, as he was attempting to flee and posed no immediate threat, in that they violated General Order 03-02-03, III.

APPLICABLE RULES:

Chicago Police Department General Order, GO 03-02-03; Deadly Force

SUMMARY OF INCIDENT:

On 07 February 2015, at approximately 1436 hours, Gang Enforcement officers were conducting a narcotics investigation of an individual, now known to be Subject 1, who they had previously identified in prior narcotics transactions. Witness Officers C and D, were operating their unmarked black Chevrolet Impala when they were directed to make a traffic stop by Officers A and B. Upon stopping Subject 1's vehicle in the vicinity of 310 W. 115th Street, Officers C and D approached Subject 1's vehicle and requested his license and insurance, which Subject 1 produced. Subject 1 was then asked to exit his vehicle for reasons of officer safety, but he refused to comply.

At this time, Officers A and B arrived to assist Officers C and D. Officers A and B parked their squad car in front of Subject 1's vehicle. Officers A and B then approached the driver's side of the vehicle and ordered Subject 1 from the vehicle multiple times. Subject 1 again refused to comply and began using his cellular phone. Officers A and B attempted to forcibly lower the driver's side window as Subject 1 continued to refuse to exit his vehicle. At this time, Subject 1 reversed his vehicle into the path of the witness officers, C and D, but did not make contact with them. Subject 1's vehicle struck the unmarked Chevrolet Impala, causing damage to the front bumper. Subject 1 then accelerated forward towards Officers A and B, who were in the middle of the street. Officers A and B fired their service weapons at Subject 1. Subject 1 drove across the median onto the sidewalk, where his vehicle came to rest in front of the All-Star Quick Mart at XXX W. 115th Street, striking a gas line. Subject 1 was taken into custody and transported to Christ Hospital with a gunshot wound to his left abdomen.

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. (Atts. #6, 57)

In his statement to IPRA on 08 February 2015, **Subject 1** stated that he has been a confidential informant for the Chicago Police Department from 2012 to 2015. On 07 February 2015, Subject 1 was driving his vehicle on 115th Street, a 2004 Lincoln Aviator, when he was stopped by the police. A plainclothes officer, now known to be Officer C, approached the driver side of his vehicle and asked Subject 1 for his license and insurance, which he provided. Officer C then told Subject 1 to step out of his vehicle. Subject 1 refused to comply because he believed he had done “nothing wrong”¹ and then rolled his window up, leaving it open approximately one inch. Subject 1 used his cellular phone and called his contact at the Chicago Police Department, now known to be Officer E. At the same time, Officer C continued to order Subject 1 to exit the vehicle.

Subject 1 stated that Officer E told Subject 1 to give his phone to the officer so that she could speak directly to the officer. A second set of officers, now known to be Officers A and B, arrived in an unmarked police SUV and pulled in front of Subject 1’s vehicle, essentially blocking him in. Subject 1 attempted to give Officer C his phone, but he refused to take it. At that time, Officer A approached the door, grabbed onto the driver’s side window and attempted to pull it down, causing the window to break. According to Subject 1, after his window was broken, the officers displayed their guns.

Subject 1 stated that, at that time, he placed his vehicle into reverse and backed up, striking the unmarked squad car parked behind him. Subject 1 stated that as he backed up, the officers moved away from his vehicle. Subject 1 stated that he then drove forward in an effort to escape and there were no officers standing in front of his vehicle. At that point, the officers began firing at him. Subject 1 further stated that all the officers were standing next to the driver’s side of his vehicle and were firing their weapons at the driver’s side of the vehicle. According to Subject 1, he was shot in his side and started having difficulty breathing. Subject 1 drove his vehicle across the street and struck a building. Subject 1 exited his vehicle and was subsequently arrested. (Atts. #14-15)

According to **Department Reports**, Subject 1 was arrested on 07 February 2015, at 1436 hours, at 310 W. 115th Street, and charged with several counts of Aggravated Assault to a Peace Officer, Possession of Cannibas, and Criminal Damage to Property. The arresting officers were A and B. It is reported that Subject 1 was arrested after attempting to flee and cause bodily harm with his vehicle to Officers A, B and C. (Atts. #17-19)

According to the **Tactical Response Reports (TRR’s)**, completed by Officers A, B, C and D; Subject 1 did not follow verbal directions, fled, was an imminent threat of battery, attacked with a weapon (vehicle), and used force likely to cause death or great bodily harm with his vehicle. Officers C and D responded with member presence and verbal commands. Officers A and B responded with member presence, verbal commands and the discharge of their firearms. (Atts. #21, 23, 25, 27)

¹ Statement of Subject 1 (Att. 15) Page 7, Line 25

According to the **Officer's Battery Reports (OBR's)**, on the date, time and location of the incident, Officers A and B were in citizen's dress conducting a narcotics investigation. Subject 1 failed to comply with verbal commands and drove his vehicle towards Officers A, B and C in an attempt to flee arrest. Officer A sustained a non-fatal minor injury. Officers B, C and D did not sustain any injuries. (Atts. #22, 24, 26, 28)

The **OEMC** and **PCAD reports** were collected and made part of this case file. The transmissions and documents appear generally consistent with the facts contained in the Summary of Incident and accounts of Officers A and B. Attempts to locate additional independent witnesses from 911 calls were made to no avail. There were no independent 911 callers to this incident. (Atts. #29, 38-39, 41)

The **POD (Police Observation Device) Video Footage** from POD #7241, located at 11458 S. Yale Avenue was obtained and viewed. There was no relevant footage pertaining to this investigation. (Atts. #36-37)

Surveillance Footage from **XXX W. 115th Street** was obtained and viewed. There was no relevant footage pertaining to this investigation as the cameras filmed on to a side street and bus stop. (Atts. #91-92)

Surveillance Footage from **XXX W. 115th Street** was obtained and viewed. There was no relevant footage pertaining to this investigation as the cameras filmed into a rear parking lot. (Atts. #93-94)

IPRA Investigators conducted two separate canvasses, the first on 08 February 2015 and the second on 16 April 2015, in an attempt to locate additional witnesses and/or evidence. Additional information was not discovered. (Atts. #30, 64)

The **Chicago Fire Department Ambulance Report** documented that Subject 1 was found to have a gunshot wound to his left flank. Subject 1 was transported to Christ Hospital. (Att. #52)

Medical Records from **Christ Hospital** indicated that Subject 1 sustained one gunshot wound to his flank. The medical records include a diagram which depicts the bullet wound entry was to Subject 1's lower back. (Att. #45)

The **CPD Forensic Services Division Records** (Crime Scene Processing Reports, Video of Scene, Evidence Technician Photographic Records and Inventory Sheets) were obtained and incorporated into this investigation. The firearms of Officers A and B were recovered and inventoried for further forensic testing. (Atts. #40, 43-44, 58-59, 90).

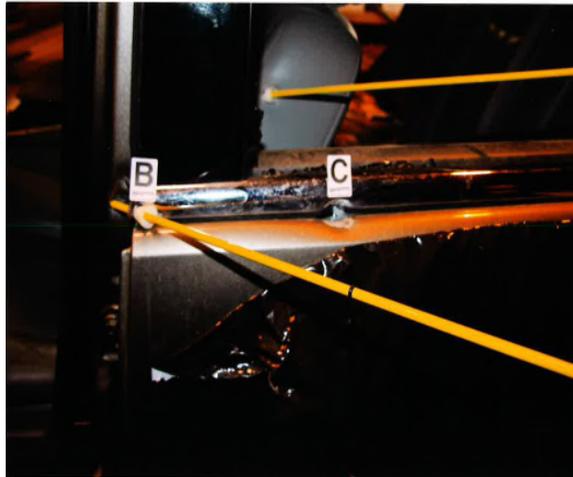
The **CPD Forensic Services Division** processed Subject 1's vehicle at Pound #4 at the request of IPRA on 06 March 2015. Trajectory rods were placed in defects from apparent fired bullet damage in the vehicle.² There were four trajectory rods placed in the defect areas which

² The examination of defects and holes caused by projectiles from firearms can provide information useful in the reconstruction of a shooting incident. "Shooting Scene Reconstruction," Minnesota Bureau of Criminal

were identified by Markers labeled A through D and photographed. A trajectory rod identified by Marker A indicated that a bullet appeared to enter almost directly into the driver's side window.



A trajectory rod identified by Marker B shows a bullet entry in the column between the driver's side front and rear doors at an angle traveling from back to front.



A trajectory rod identified by Marker C shows a bullet entry in the driver's side rear door just below the window at an angle traveling from back to front.



A trajectory rod identified by Marker D shows that bullet traveled through the driver's side rear window through the driver's seat and toward the front console of the vehicle.



Markers were placed and photographed to document where shell casings were recovered at the scene. The location of casings cannot definitively establish the placement of the officers when they fired. The photographs show that the casings were found in and around the space that Mr. Galotte's vehicle had occupied when stopped between the two police vehicles. It should be noted that the photographs show that the casings were found closer to the vehicle that blocked Subject 1's vehicle at the rear. (Atts. #55, 58)

Illinois State Police Forensic Science Laboratory Reports documented the examination of recovered ballistic evidence, in comparison to the firearms belonging to each officer. Both firearms tested were found to be in proper firing condition. Based upon analysis of ISP Reports and Forensic Reports, it was determined that Officer A fired three times and Officer B fired two times. The shell casings and fired bullets were compared to the officers' firearms and found to match their respective weapons. Additional ballistic evidence, to include bullet fragments and copper jacketing, was found to be of insufficient condition for comparative examination to either Officer A or Officer B's weapon. (Atts. #89-90)

In her statement to IPRA on 22 April 2015, **Witness Officer E** stated that Subject 1 was a registered narcotics informant with whom she had worked for the two to three years prior to her statement. According to Officer E, on 07 February 2015, Subject 1 contacted her via telephone and told her that he had been stopped by the police and that they wanted him to exit his vehicle, but he was refusing their orders. According to Officer E, Subject 1 sounded “very agitated and upset,” saying “I don’t know why I gotta get out, why do I gotta get outta the car. I don’t know why I complied with ‘em. I gave ‘em my lic, why do I have to get outta the car.”³ Officer E instructed Subject 1 several times to exit the vehicle. She also suggested that, after doing so, he should explain to the officers that he was an informant and ask them to call her. Officer E then heard a muffled noise as if the phone was dropped and then heard Subject 1 state words to the effect of, “You shot me....Why did you shoot me?”⁴ The phone was active for several more seconds and then it was disconnected. (Atts. #65-67)

In his statement to IPRA on 17 February 2015, **Witness Officer D** stated that he and his partner, Officer C, received a call via cellular phone from Officer A. Officer A told Officer D that he had observed a male, now known to be Subject 1, conduct a possible hand-to-hand narcotics transaction out of his vehicle, a Lincoln Aviator, and he wanted the vehicle stopped. Officer A gave the location of the vehicle, which Officers C and D located and stopped at approximately XXX W. 115th Street.

Officer D approached the passenger side of the vehicle, while Officer C approached the driver’s side. According to Officer D, Subject 1 was uncooperative and was “verbally yelling”⁵ towards Officer C. Officer C continued to order Subject 1 to exit the vehicle, but he refused and began talking with someone on his cellular phone. Officer D related that Subject 1 continued to sit in his vehicle with the driver’s side window slightly rolled down. A few moments later, Officers A and B pulled up and parked their unmarked squad car in front of Subject 1’s vehicle, at a diagonal angle. Officers A and B exited their squad car and approached the driver’s side of the vehicle and ordered Subject 1 to exit.

At this point, Officer D relocated to the rear driver’s side tire. Officer D heard the vehicle switch into gear. Officer D stepped away from the vehicle and observed Officer A holding on to the driver’s side window. Subject 1 reversed his vehicle and struck the front of Officer D’s unmarked squad car, causing damage to the front end of the vehicle. As Subject 1 reversed his vehicle, Officer A released his hands from the driver’s side window and the window shattered. Officer D heard the rear tires squeal and observed Subject 1 turning the front wheels, as he drove forward towards Officers A, B and C. Officer A and B then discharged their weapons several times at Subject 1. According to Officer D, the entire event occurred within a matter of seconds.

Officer D stated that Subject 1 drove his vehicle forward and crashed into a building on the opposite side of the street. Officers C, D, A and B approached and placed Subject 1 into custody. Officer D observed a large red stain on the t-shirt Subject 1 was wearing and assumed that he was injured. Officer D then called for an ambulance. (Atts. #46, 47)

³ Statement of Officer E (Att. 67), Page 12, Lines 23-27

⁴ Statement of Officer E (Att. 67), Page 11, Lines 7-8

⁵ Statement of Officer D (Att. 47), Page 11, Line 18

In his statement to IPRA on 17 February 2015, **Witness Officer C** gave a similar account as that of Officer D. Officer C added that when he approached the vehicle, Subject 1 immediately began to use his cellular phone. Subject 1 then tried to pass the phone to Officer C, but he refused to take it and continued to order Subject 1 to exit the vehicle. Once Officers A and B arrived on the scene, they ordered Subject 1 out of the vehicle several more times. Officer A then “put his hands on the window and then when he did that, that’s when the offender put the car in reverse and gunned it”⁶ and hit Officer C’s squad car. Officer C added that he gave verbal directions, such as, “Don’t do it,” and “Stop,”⁷ to Subject 1 when he began driving his vehicle forward towards him and his fellow officers. (Atts. #48, 49)

In his statement to IPRA on 29 October 2015, **Involved/Accused Officer A** stated that he and his partner, Officer B, were stopped earlier in the week prior to the incident by a concerned citizen who informed them about an individual selling narcotics in the area. The concerned citizen gave the description of Subject 1, his residence and the vehicle he owned. According to Officer A, he and Officer B drove down the block and observed a Lincoln Navigator⁸ drive up and park in front of the residence identified by the concerned citizen. Officer A observed Subject 1 exit his vehicle and run into the residence, leaving the vehicle running with the windows rolled down. Officer A and B pulled up and approached the vehicle on foot. Subject 1 then exited his residence, approached and asked the officers why they were around his vehicle. Officer A explained to Subject 1 that they were checking on the vehicle to ensure it was not stolen. Officer A and B then left the area.

According to Officer A, on 07 February 2015, he and Officer B parked at 116th Street and Lafayette in an effort to conduct surveillance on residence on 115th Street that had been pointed out to them, which presumably was Subject 1’s residence, in furtherance of a narcotics investigation. Officer A observed Subject 1 exit his residence and enter his vehicle. An unknown male approached Subject 1, at which time they had a brief conversation and then conducted what Officer A believed to be a hand-to-hand narcotics transaction. When Subject 1 drove his vehicle to 116th Street, Officers A and B followed in their unmarked Ford Explorer. Officer A observed Subject 1 stop his vehicle, at which time a second unknown male approached the vehicle and entered the front passenger door. Subject 1 drove the vehicle for approximately one block down 116th Street and the unknown male then exited the vehicle.

Officer A contacted Officers C and D via cellular phone and instructed them to conduct a traffic stop on Subject 1’s vehicle. Officer A told the officers that he wanted them to stop Subject 1 because he and Officer B had prior contact with Subject 1 and he believed that Subject 1 knew why he was approached several days prior. Officers C and D arrived in the area and began to follow Subject 1 to 115th Street, while Officers A and B began driving a different route to 115th Street.

Once Officers A and B turned on to 115th Street, Officer A observed Officers C and D as they conducted the traffic stop of Subject 1’s vehicle. According to Officer A, he and Officer B were approximately one block away and observed that Officers C and D were having difficulty in getting Subject 1 to exit his vehicle. Officers A and B decided to approach the vehicle to

⁶ Statement of Officer C (Att. 49), Page 20, Lines 28-31

⁷ Statement of Officer C, (Att. 49), Page 48, Line 27

⁸ Through the investigation it was determined that Subject 1 drove a 2004 Lincoln Aviator.

assist the other officers. Officer B drove up and parked their unmarked squad car at a forty-five degree angle approximately six feet in front of Subject 1's vehicle. Officer A exited his squad car and observed Subject 1 to be irate, cursing and yelling while on his cellular phone.

Officer A approached the driver's side door and observed the driver side window rolled down approximately six inches. Subject 1 attempted to hand Officer A his cellular phone. Officer A placed both his hands on top of the driver's side window, announced his office and ordered Subject 1 to exit the vehicle. According to Officer A, it was then that Subject 1 grabbed the gear shifter and put his vehicle into reverse. As Subject 1 reversed his vehicle, Officer A pushed himself off the driver's side window, at which time the window shattered.

Officer A explained that Subject 1 reversed his vehicle, striking the front of Officer C and D's squad car. Subject 1 then turned the wheel and the front driver's side of the vehicle came towards Officer A. Officer A drew his firearm and began to retreat backwards into the street, distancing himself approximately two to three feet away from Subject 1's vehicle. Officer A related he was focused on the vehicle but was aware of oncoming traffic behind him when he fired his weapon. Officer A related he was in the middle of the street and "because of oncoming traffic.....it was a busy street, fearing for my life, and my partner's life,"⁹ he discharged his weapon three times at Subject 1 as the vehicle came towards him. Officer A added that he couldn't move out of the way because of on coming traffic. According to Officer A, the incident "happened so fast" and he had only "seconds to react."¹⁰ Subject 1 then drove his vehicle across the street, where he struck a building and came to a stop.

Officer A immediately ran over to secure the scene and approached Subject 1's vehicle from the front. Officer A observed Subject 1 exit the vehicle with a blood stain on the left side of his abdomen. Officer A then placed Subject 1 into custody. Officer A learned later in the evening that Subject 1 was a confidential informant for the Chicago Police Department. Officer A denied the allegation that he fired his weapon without justification as Subject 1 was attempting to flee. (Atts. #79, 80)

In a statement with IPRA on 29 October 2015, **Involved/Accused Officer B** provided an account of the events that was similar to that of his partner, Officer A. Officer B related he parked five feet in front Subject 1's vehicle, at a forty five degree angle. Officer B exited his squad car and approached the driver's side of Subject 1's vehicle. Officer B related he was standing to the left of Officer A by the front driver's side tire while Officer A was standing in front of the driver's side door. Officer B ordered Subject 1 to exit the vehicle, at which time Subject 1 began to shout and scream that he didn't have to exit the vehicle. Officer B related Subject 1 was on his cellular phone and that he attempted to hand the phone over to one of the officers. Again, Subject 1 was ordered to exit the vehicle and he responded, "Fuck this. Fuck you all."¹¹ Subject 1 then moved his right hand to the gear shifter and Officer B ordered him to stop. Subject 1 placed his vehicle in reverse and backed his vehicle into the front of Officers C and D's unmarked squad car.

⁹ Statement of Officer A, (Att. 80), Page 19, Lines 13-16

¹⁰ Statement of Officer A, (Att. 80), Page 42, Lines 6-7

¹¹ Statement of Officer B (Att. 88), Page 16, Lines 13-14

Officer B believed that Subject 1's vehicle had struck Officer D, who had been standing at the rear of the vehicle. Officer B drew his firearm as he stood by the front driver's side of Subject 1's vehicle. Subject 1 turned the steering wheel of his vehicle and began to drive towards him. Officer B heard the tires "screech" and observed the driver's side of the vehicle come towards him. Officer B stated that he took a half step back, but did not have enough time to get out of the way of the vehicle coming towards him. Officer B felt that he was in danger and fired two rounds into the driver's side window. Officer B related that as the vehicle was coming at an angle, he "aimed right at the driver and fired two shots."¹² Officer B heard Officer A fire his weapon, but his attention was on Subject 1 and the vehicle; he therefore did not observe Officer A fire his weapon. Subject 1 continued to drive his vehicle to the opposite side of the street where he struck a building and his vehicle came to a stop. Officer B radioed "shots fired" and called for an ambulance. Officer B observed Subject 1 exit his vehicle and scream, "You shot me. You shot me. I'm gonna sue you. You shot me."¹³ Subject 1 was then taken into custody. (Atts. #87, 88)

Chicago Police Department General Order G03-02-03 "Deadly Force" which was in effect at the time of this event only authorizes an officer to fire into a moving vehicle to prevent death or great bodily harm to the sworn member or another person. The order specifically stated that when a sworn member is "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 noted that this order was rescinded on 10 February 2015, and replaced with an updated General Order, which reinforces that sworn members are specifically prohibited from firing into a moving vehicle. (Att. #71)

¹² Statement of Officer B (Att. 88), Page 36, Lines 12-13

¹³ Statement of Officer B (Att. 88), Page 17, Lines 10-11

CONCLUSION AND FINDING:

The Reporting Investigator recommends **Allegation #1** that **Officer A** fired his weapon upon Subject 1 without justification, as he was attempting to flee and posed no threat immediate threat to him, be **SUSTAINED**.

In his statement to IPRA, Officer A stated that he was attempting to pull Subject 1's driver side window down, when Subject 1 placed his vehicle in reverse and began to back up. Officer A stated that at that time, he pushed himself off of the window, causing it to shatter. Officer A stated that he retreated two to three feet into the street, away from Subject 1's vehicle, as he drew his firearm. Officer A stated that he observed Subject 1 strike the patrol car behind him, turn his steering wheel to the left, and began to move forward. Officer A cited the potential for oncoming traffic to block his further retreat away from Subject 1's vehicle. Officer A stated that he feared the vehicle was going to strike him and/or Officer B and therefore fired his weapon at Subject 1.

An analysis of the evidence, specifically the bullet hole trajectories, clearly show that, at the time Officers A and B fired their weapons, they were standing next to Subject 1's vehicle, as all of the rounds hit the driver side of his Lincoln Aviator either going directly into the side of the car or at an angle traveling from the back to the front of the car. The bullet path identified by Marker A shows that one bullet was fired almost directly into the driver's side window. The bullet paths identified by Markers B, C, and D show that those shots were fired into the vehicle from the driver's side in a back to front direction. This evidence suggest that, at the time the officers fired their weapons, they were positioned along the driver's side of the vehicle as it was traveling past them, not in front of the vehicle in harm's way.

By his own admission, Officer A had created distance between himself and the vehicle, and was continuing to expand that distance as he retreated into the street, away from the vehicle. Chicago Police Department General Order G03-02-03 "Deadly Force," which was in effect at the time of this event, only authorizes an officer to fire into a moving vehicle to prevent death or great bodily harm to the sworn member or another person. The order specifically states that when a sworn member is "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."

As Officer A had time to react to Subject 1 manipulating the gear shift, reversing his vehicle, manipulating the gear shift again, turning his wheel, and then driving forward, it is reasonable to believe that he had the time and opportunity to move out of the vehicle's path, as mandated by the general order. In fact, Officer A himself explains that he was retreating from the vehicle. The physical evidence supports that Officer A was not in the path of the vehicle at the time he fired. The preponderance of the evidence leads the R/I to conclude that Officer A had moved out of the vehicle's path, yet still fired his weapon. Officer A's use of deadly force is therefore objectively unreasonable, and a violation of policy.

The Reporting Investigator recommends **Allegation #1** that **Officer B** fired his weapon upon Subject 1 without justification, as he was attempting to flee and posed no threat immediate threat to him, be **SUSTAINED**.

In his statement to IPRA, Officer B stated that he was standing to the left of Officer A, next to the front driver's side tire. As they were ordering Subject 1 out of the vehicle, Subject 1 placed his vehicle in reverse and began to back up. Officer B stated that due to the reversal of the vehicle, he was now located at the front driver's side bumper of the vehicle. Officer B stated that he heard metal being smashed when Subject 1 reversed his vehicle. Subject 1 then turned his steering wheel and began to drive forward. Officer B drew his firearm and fired two rounds into the driver's side window. Officer B stated that he believed the vehicle struck Officer D, who was standing at the rear of the vehicle and feared that the vehicle was going to strike him and/or Officer A and therefore fired his weapon at Subject 1.

As outlined above, an analysis of the evidence, specifically the bullet hole trajectories, clearly shows that, at the time they fired, they were standing next to Subject 1's vehicle, as all of the rounds hit the driver side of his Lincoln Aviator, most of them going into the car at an angle from back to front.

By his own admission, Officer B was no longer in front of the vehicle when he fired his weapon into the driver's side window. Chicago Police Department General Order G03-02-03 "Deadly Force," which was in effect at the time of this event, only authorizes an officer to fire into a moving vehicle to prevent death or great bodily harm to the sworn member or another person. The order specifically states that when a sworn member is "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."

Because Officer B had time to react to Subject 1 manipulating the gear shift, reversing his vehicle, manipulating the gear shift again, turning his wheel, and then driving forward, the circumstances suggest that Officer B had the time and opportunity to move out of the vehicle's path, as mandated by the general order. The physical evidence supports that Officer B was not in the path of the vehicle at the time he fired.

Officer B also claims that he believed that Subject 1's car had struck Officer D who had been standing at the rear of the vehicle before it moved. The CPD policy allows for the use of force when the officer or another is in imminent threat of danger, or to prevent the fleeing felon from preventing an arrest. However, it is not clear from the evidence that it was reasonable for Officer B to believe that Officer D was in imminent threat of harm, or that he had been struck by the vehicle making Subject 1 a fleeing felon. However, even if Officer B subjective belief was reasonable, his conduct would still fall outside of CPD policy which clearly prohibits firing at or into a moving vehicle under the circumstances described here.

As such, the preponderance of the evidence leads the R/I to conclude that Officer B had moved out of the vehicle's path, yet still fired his weapon. Officer B's use of deadly force is therefore objectively unreasonable, and a violation of policy.

FINDINGS:

Accused: **Officer A, #17317**

Allegation #1: **Sustained.** Violation of General Order 03-02-03, III, “Deadly Force” in that on 07 February 2015, at 1436 hours, in the vicinity of 310 West 115th Street, Officer A fired his weapon without justification, as Subject 1 was attempting to flee and posed no immediate threat.

Accused: **Officer B, #21386**

Allegation #1: **Sustained.** Violation of General Order 03-02-03, III, “Deadly Force” in that on 07 February 2015, at 1436 hours, in the vicinity of 310 West 115th Street, Officer A fired his weapon without justification, as Subject 1 was attempting to flee and posed no immediate threat.