

INDEPENDENT POLICE REVIEW AUTHORITY

16 August 2016

INVESTIGATION

NUMBER: Log#1066725/U#13-42

INVOLVED

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

**OFFICER #1’s
INJURIES:** None reported.

INVOLVED

OFFICER #2: “Officer B” (Chicago Police Officer); Male/White; 33 years old; On-Duty; Full Uniform; Year of Appointment – 2004

**OFFICER #2’s
INJURIES:** None reported.

SUBJECT #1: “Subject 1;” Male Black; 18 years old

**SUBJECT #1’S
INJURIES:** Gunshot wound to right interior shoulder, through-and-through. Treated at Christ Hospital and released to police custody.

SUBJECT #2: “Subject 2;” Male/Black; 18 years old

**SUBJECT #2’S
INJURIES:** Gunshot wound, through-and-through, to right ankle and left thigh. Treated at Christ Hospital and released to police custody.

LOCATION: On the street, in the vicinity of XXXX S. La Salle Street - Beat XXX

DATE/TIME: 22 December 2013, approximately 1706 hours.

**INITIAL
INCIDENT:** Motor Vehicle Theft/Recovery

INTRODUCTION

On 22 December 2013, Officers B and D, who were assigned as Beat XXX, observed a Toyota driving at a high rate of speed eastbound out of the north alley of 95th Street and then southbound onto La Salle Street. Officers B and D turned northbound onto La Salle Street, causing their squad car and the Toyota to face each other. The driver of the Toyota, now known as Civilian 1, exited the vehicle and fled on foot. The Toyota rolled forward and wedged between Officers B's and D's squad car of Beat XXX and a gold-colored Saturn, causing damage to both vehicles. Officer D exited the squad car, pursued Subject 1 on foot, and eventually apprehended him. Officer C and Officer A, who were assigned to Beat XXX were near 95th and the Dan Ryan and heard the radio transmission that Officers B and D needed assistance with a possible stolen car. Officers C and A turned from 95th Street northbound onto La Salle Street. Officer A exited his squad car and observed Officer B standing next to his squad car. Officer C found a broken replica handgun on the ground near the passenger side of the Toyota. A person, now known as Civilian 5, stood between the squad car of Beat XXX and the passenger side of the Toyota. A person in the back seat, now known as Subject 1, jumped into the front seat of the Toyota. Subject 1 shifted the Toyota into reverse. Officer A heard the Toyota's engine rev and its tires spin. Civilian 5, who had been standing between the squad car of beat XXX and the Toyota, screamed that he was pinned. Officer A heard the word "gun" and saw the Toyota driving in reverse. Officer A saw a person, now known as Civilian 4, emerge from the rear driver's side door of the Toyota. Officer A heard Civilian 4 say, "Stop," and Officer A believed that Civilian 4 was being dragged. Officer A fired his weapon 16 times at the Toyota in order to stop its driver from running over Civilian 4. The Toyota traveled north and then west into the east-west alley. The Toyota then drove east and stopped in front of XXXX S. La Salle Street.

Seven persons who had been inside the Toyota were taken into custody and transported to Area South Headquarters. Two injured subjects, now known as Subject 1 and Subject 2, were transported to Christ Hospital.

The in-car camera that was inside Officer A's assigned vehicle, Beat XXX, captured Officer A's use of deadly force. Subsequently, the Reporting Investigator served Officer A with allegations that he was in violation of the use of deadly force policy. The Reporting Investigator recommends a finding that Officer A's use of deadly force was objectively unreasonable and outside of department policy.

During the course of this investigation, the Reporting Investigator also served allegations to a second accused officer, Officer B, in that Officer B failed to complete and submit a Tactical Response Report regarding his use of force during an encounter with one of the youths that was arrested during this incident.

APPLICABLE RULES

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

Rule 6: Disobedience of an order or directive, whether written or oral.

Rule 38: Unlawful or unnecessary use or display of a weapon.

ALLEGATIONS

On 22 December 2013, at approximately 1706 hours, the Reporting Party Third Party, Deputy Chief A contacted the Deployment Operations Center and registered an Officer Involved

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

Police Shooting under U#-13-42 with Officer A.

The complainant, IPRA Investigator A alleges that on 22 December 2013, at approximately 1706 hours, at XXXX S. LaSalle Street, alleges that **Officer A:**

1. Used deadly force against Subject 1, Subject 2, Civilian 2, Civilian 3, and Civilian 4 in violation of Rule 6, specifically in violation of General Order 03-02-03, II, B & III, C; and in violation of Rule 2.
2. Unlawfully and unnecessarily discharged his weapon into a vehicle that was moving away from him, in Violation of Rule 38

It is further alleged that on 22 December 2013, during his tour of duty, **Officer B:**

1. Failed to complete and submit a Tactical Response Report (TRR,) reporting his use of force during his encounter with Civilian 5, which took place on 22 December 2013, at approximately 1706 hours, at XXXX S. LaSalle Street, in violation of Rule 6.

INVESTIGATION

Investigator B conducted a Preliminary Investigation of the Officer- Involved Shooting at XXXX S. LaSalle Street. The following information was preliminary and contained multiple levels of hearsay. It was provided by Deputy Chief A, who conducted the walk-through on 22 December 2013, at approximately 2000 hours.

Deputy Chief A stated that Officers B and D, who were assigned as Beat XXX, were on patrol driving on 95th Street. The officers observed a car, which was a Toyota Avalon, drive at a high speed eastbound out of the north alley of 95th Street. The Toyota then drove south onto La Salle Street. Beat XX turned north onto La Salle Street and Beat XXX's vehicle and the Toyota faced each other. As many as eight juveniles might have been inside the Toyota, with possibly six in the back seat and two in the front seats. The Toyota's driver exited the Toyota and fled on foot. The Toyota rolled south and wedged between Beat XXX and a gold-colored Saturn, causing damage to those vehicles. Officer D exited the squad car and pursued the Toyota's driver on foot, eventually apprehending him. Beat XXX, Officers A and C were near 95th Street and the Dan Ryan when they heard a radio transmission from Beat 642 requesting assistance regarding a possible stolen car. Officers A and C drove onto 95th Street, arrived on LaSalle Street and stopped the police vehicle next to Beat XXX.

Officer A exited Beat XXX and observed Officer B standing on the west side of Beat 642. Another person was standing between Beat 642 and the passenger side of the Toyota. A person in the back seat of the Toyota jumped into the front seat of the Toyota. That person shifted the Toyota into reverse. Officer A heard the Toyota's engine rev and its tires spin, and the person standing between Beat XXX and the Toyota was screaming that he was pinned. Officer A heard the word "gun" and saw the Toyota driving in reverse. Officer A saw a person emerging from the rear driver's side of the Toyota. Officer A heard that person say, "Stop," and believed that the person was being dragged. Officer A fired at the Toyota's driver in order to stop the car and prevent it from running over the person who was apparently being dragged. The Toyota traveled north and then west into the east-west alley. The Toyota then drove east and stopped in front of XXX S. La Salle Street. Officer A might have reloaded his weapon and fired again. It was not known exactly how many shots were fired. (Att. 4)

The **Department Report** (XXXXXXXXXX, Event # XXXXXXXXXXXXX) documented that the involved officers, working Beat XXX, Officers B and D made a traffic stop of a Toyota at XXX S. LaSalle Street, of which the driver, now known as Subject 1, fled on foot. Beat XXX, manned by Officers A and Officer C assisted Beat XXX with their traffic stop. Beat XXX

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

vehicle was facing northbound in the middle of the street. According to the Detective Case Supplementary Report, Officer A stated that, upon his arrival, he observed Officer B on the passenger side of the Toyota. Officer A stated that he observed an individual, now known as Civilian 5, wedged in between the front passenger door of the Toyota and another vehicle parked along side of the curb. Officer A stated that he stopped his squad car on the west side of the street, parallel to Beat XXX's vehicle. Officer A stated that as he approached the Toyota, he observed the tires start spinning, and he heard the engine revving high. Officer A stated that simultaneously he heard "Gun, Gun," and observed the vehicle reversing. Officer A stated he observed the rear driver's side door open and an individual, now known as Civilian 4, being dragged backward. Officer A stated that he shouted, "Stop, stop." Officer A stated that he heard the individual being dragged screaming, "Stop, stop." Officer A stated that he observed the driver, now known as Subject 1, ducking down as he was reversing the vehicle. Officer A stated that he was in fear for the life of the individual being dragged, and fired his weapon at the driver of the vehicle. Officer A stated that he continued to fire until the vehicle stopped, and the threat against the individual that was being dragged was eliminated. Officer A stated that all the occupants of the vehicle were detained, and EMS personnel transported the injured parties to the hospital. (Att. 114)

In a Case Supplementary Report (Cleared/Closed-Arrest and Prosecution) submitted by Detective A, Detective A stated that he spoke to **Civilian 5**. **Civilian 5** stated the following: Civilian 5 was walking in an alley with Civilian 2 and Subject 1, when they observed a Toyota with the key in the door. Civilian 5 stated that they entered the vehicle and drove away. Civilian 5 stated that they picked up "Civilian 1", at which time "Civilian 1" began to drive the vehicle. Civilian 5 stated that they were on LaSalle Street when the police car pulled in front of them and attempted to stop them. Civilian 5 stated that Civilian 1 immediately fled the vehicle on foot. Civilian 5 stated that he attempted to exit the vehicle but became stuck in the door as the car continued to roll between the police car and a parked vehicle. Civilian 5 stated that he began yelling that his leg was stuck and getting squeezed by the vehicle. Civilian 5 stated that Subject 1 jumped in the driver seat and placed the vehicle in reverse. Civilian 5 stated that he heard the police yell "Stop" and "Don't move." Civilian 5 stated that he next heard shots being fired. Civilian 5 stated that he was in possession of a black "BB" gun that fell to the ground while he was freeing himself from the car.

In addition, Detective A spoke to Subject 1. Subject 1 told Detective A that he was aware that "Civilian 5" found the keys to the vehicle and drove away with it. Subject 1 stated that they were on 95th Street and LaSalle when the police attempted to stop them by pulling in front of their vehicle. Subject 1 stated that Civilian 5 attempted to flee from the front passenger door, but he became trapped between the Toyota and police car. Subject 1 stated that "Civilian 5" kept yelling that his leg and foot were stuck, and the vehicle was squeezing his leg. Subject 1 stated that "Civilian 4" also attempted to flee from the rear driver's door, but became wedged in the door with one leg in the car and one leg out of the car. Subject 1 stated that "Civilian 4" kept yelling, "I'm stuck." Subject 1 stated that he leaned over to the front driver's seat and pressed the accelerator with his hand. Subject 1 stated that the vehicle's engine revved, but the vehicle did not move. Subject 1 stated that he continued to accelerate the vehicle, and it began to drive backward. Subject 1 stated that he heard the police yelling "Stop." Subject 1 stated that he next observed the police shooting at the vehicle. Subject 1 stated that when the vehicle stopped all

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

parties were taken into custody. He added he was immediately taken to the hospital. (Att. 119)¹

The Department Reports, and an Illinois Traffic Crash Report (XXXXXXXX, XXXXXXXX, and XXXXXXXX) reflect that Civilian 1, driver of the stolen Toyota, who abandoned the vehicle, and as the vehicle continued to roll, the stolen vehicle struck three vehicles and a light pole. (Att.'s 21, 22, 23)

The in-car camera of CPD vehicle #XXXX, which was assigned to Officer A and Officer C (Beat XXX), captured Officer A's use of deadly force. The video begins at approximately 17:07:20 and ends at approximately 17:31:50. The police vehicle appears to be traveling in the vicinity of 95th Street and the Dan Ryan Expressway. At approximately 17:09:14, the police vehicle, headed westbound with its emergency lights on, makes a right turn on LaSalle Street, where a second squad car, facing north, has stopped a civilian vehicle (the Toyota) which faces south. Beat XXX moves to the left of the second squad car and comes to a stop. A second civilian vehicle can be seen several feet north, backing out of the north alley of 95th Street, and stopping southbound on LaSalle Street.

At approximately 17:09:32, an officer now known as Officer A appears from the left side of the screen, drawing his firearm with his left hand. He walks left to right across the screen (eastbound) in front of Beat XXX, holding his firearm using a one-handed canted grip² and pointing his firearm at a target outside the view of the camera. It is unclear whether Officer A is firing his service weapon as he walks. Officer A pauses at the far right side of the screen and only his torso is visible.

The Toyota then comes back into view from the lower right corner of the screen, driving rapidly in reverse (northbound). The Toyota's passenger side is facing Officer A. As the Toyota reverses, an unknown individual's head and upper body is protruding out of driver's side of the vehicle; the individual's head and shoulders are visible above the roof of the car. The Toyota's interior is illuminated; additional occupants are visible inside the car. Officer A reacts by taking several quick steps back, gripping his firearm in a standard, two-handed grip, and continuously firing numerous rounds at the Toyota as it quickly drives past him in reverse. Officer A's firearm emits visible smoke each time he fires. Officer A continues to fire at the Toyota until it stops at the northwest corner of the LaSalle Street and the north alley of 95th Street. The vehicle then rolls slowly forward and comes to a stop when it strikes a light pole on the northeast corner of LaSalle and the north alley.

Additional officers come into view almost immediately. The occupants of the civilian vehicle are escorted out of the vehicle and handcuffed. One male black emerges from the back seat hopping on his left leg. The occupants are then escorted out of view of the camera and several officers appear to tape off the scene and place evidence markers on the ground. (Att. 72)

In a statement to IPRA on 06 November 2014, Officer A stated he was working with Officer C as his partner in a marked SUV. Officer A stated they responded to a radio simulcast for assistance from Beat XXX at XXXX S. LaSalle Street. As the interview progressed, while reviewing the in-car camera video and as Investigator A paused the footage at various intervals, Investigator A asked Officer A to explain his actions during the playback of the in-car camera video. Officer A explained upon his arrival, he exited his police vehicle with his gun drawn, and he took a tactical approach towards the vehicle. Officer A stated he began shooting at the front of the vehicle, at the driver, to neutralize the threat posed by the driver. Officer A stated he saw the

¹ Detective's statements of Subject 1 and Civilian 5 are on Page 12 of 13.

² According to Police Academy Range Master, Officer E, this method of holding a firearm is inconsistent with department training

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

back seat passenger, a teenager, hanging halfway out of the window, clawing at the roof line of the vehicle while yelling, "Help, help, help. Stop, stop, stop." Officer A stated he began firing his weapon in the direction of the driver because the driver was using the vehicle as a weapon. Officer A stated he emptied his weapon that contained 15 rounds in the magazine and one in the chamber. Officer A stated that his main concern was the teenager in the backseat that was hanging out the door and he feared that the driver was going to ram him into a light pole. Officer A stated he also feared for himself and Officer B. (Att. 142)

On 11 May 2016, in a follow-up interview with Officer A, the Reporting Investigator presented Officer A with the allegations that he used deadly force against Subject 1, Subject 2, Civilian 1, Civilian 2, Civilian 3, Civilian 4, and Civilian 5, in Violation of Rule 2; and in violation of Rule 6, specifically in violation of General Order 03-02-03; and that he violated Rule 38 when he unlawfully and unnecessarily discharged his weapon into a vehicle moving away from Officer A. Officer A stood by his original statement that he made on 06 November 2014. (The summarization of that interview is noted in the above paragraph.) Officer A categorically denied that he was in violation of Rule 2 and he further denied he violated General Order 03-2-03.

In addition, Officer A denied he violated Rule 38 when he discharged his weapon into a vehicle that was moving away from him. With regards to Officer A firing his weapon 16 times, Officer A stated, "I emptied my clip, I fired 16 rounds in order to stop the threat, which was to neutralize the driver at the time, and from hitting me, the officers near me, crashing the vehicle, and the teenage boy that was being dragged, that was in the back seat. He was being dragged down the street, in order, I didn't want for him to be killed, or get pinned, or dragged under the car or anything like that. That's why I fired 16 times into the vehicle, actually into the direction of the driver." (Att. 177 & 183)

Officer A's Tactical Response Report reflects that he discharged his firearm 16 times from a distance of 10 – 15 feet 'when the first shot was fired.' (Att. 9)

In statement to IPRA on 26 December 2013, Officer C stated that he was on the passenger riding with his partner, Officer A, as Beat XXX in a marked SUV that was equipped with an in-car camera that was working and activated. Officers C and A responded to Beat XXX's call for assistance at 95th Street and LaSalle Street. Upon his arrival, Officer C observed Officer B standing outside of his vehicle. Officer C also observed the subject vehicle in the middle of the street Officer C saw a passenger of the subject vehicle attempt to get out through the front passenger door. Officer C stated that his police vehicle was parked just west of Officer B's vehicle when he noticed that the subject vehicle that was stopped contained four or five occupants in the back seat. Officer C stated that he gave verbal commands to the occupants to let him see their hands. Officer C saw what initially appeared to be a black steel revolver fall to the ground from the front passenger side of the vehicle.³ Officer C stated that he heard and saw the replica gun hit the ground. Officer C stated that he recovered and secured the gun by placing it in his pants pocket. According to Officer C, upon closer examination, he realized it was a pellet gun that was very similar in appearance to an actual firearm, but was not an actual firearm.⁴ Officer C next saw someone from the back seat trying to get in the front driver's seat and he saw the vehicle moving in reverse. Simultaneously as the vehicle went in reverse, Officer C noticed that there was a person hanging out the rear driver's side. Officer C could see the person's shoulder

³ The item that fell was later discovered to be a replica of a firearm.

⁴ Att. 62, Page 13, lines 19-32, Page 14, lines 2 to 7.

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

and head above the roofline of the vehicle. Officer B secured the person who was in the front passenger side, as the vehicle traveled backward. Officer C gave the gun to Officer B. Officer C heard multiple gunshots, but he did not know who fired them. After hearing the gunshots, Officer C saw the vehicle travel back and forth and then come to a complete stop. Officer C saw one of the passengers exit the vehicle and sit on the front lawn at the second house from the corner next to the north alley. Officer C handcuffed this person and seated him on the east curb. Another passenger was taken into custody by other responding officers. According to Officer C, an unidentified officer handed this individual to Officer C who then seated this individual next the other passenger he had taken into custody and seated on the curb. Officer C then heard another passenger say they were shot. According to Officer C, Officer B called for an ambulance. (Att. 62)

In a statement to IPRA on 23 December 2013, Officer D stated that he was working with his partner Officer B in a marked squad car. Officer D observed a vehicle, traveling at a high rate of speed eastbound in the alley on the north side of 95th Street at La Salle Street. Officer D and his partner signaled the vehicle to stop by activating their emergency lights. The vehicle slowed down and the driver, now known as Civilian 1, exited the vehicle and fled eastbound in the alley along the north side of 95th Street. Officer D apprehended Subject 1 after a brief foot chase, and placed him in handcuffs. Officer D heard multiple loud reports, but did not know who had fired the shots. Officer D escorted Subject 1 to the squad car and placed him in the back seat. (Att. 46)

In a statement to IPRA on 23 December 2013, Officer B stated that he was driving a marked squad car with his partner, Officer D, as the passenger officer. When Officer B attempted to pull over the Toyota, the driver of the Toyota jumped out. The driver, now known as Civilian 1, fled eastbound through the alley north of 95th Street. Officer D pursued Subject 1 on foot through the alley. Officer B saw the front passenger, now known as Civilian 5, get out of the Toyota. As the vehicle was moving, Civilian 5's legs got pinned between Officer B's squad car and the Toyota. As the Toyota continued to roll forward, it struck the front right bumper of Officer B's squad car, and the passenger-side door of a parked gold Saturn. As he observed this, Officer B called for assistance over his police radio. Moments later, Beat XXX arrived manned by Officer A and Officer C. Officer C verbally directed the occupants in the Toyota to, "Stay still, freeze. Don't move. Let me see your hands." As Officer C gave these verbal commands, a black male youth, who was seated in the back seat, jumped over to the front seat of the Toyota, and began pushing the gas pedal with his hand. The vehicle's engine revved up but was not moving. The vehicle began to move in reverse and as it did, the individual, now known as Civilian 5, who was wedged in between the cars, became unstuck. Officer B stated once Civilian 5 was unstuck, he heard a weapon fall to the ground. The item appeared to be a large black revolver. Officer B immediately handcuffed Civilian 5. Officer B did not immediately recover the gun as it lay on the street. According to Officer B Officer C picked up and turned the gun over to him stating, "Gun, here's the gun." After Officer C gave him the gun, Officer B put the gun in his cargo pants pocket. As Officer B put the recovered gun in his cargo pants pocket, he heard gunshots. Officer B saw Officer A firing multiple shots at the vehicle as it was moving in reverse. According to Officer B, it appeared to him that one of the passengers from the Toyota was being dragged by the moving vehicle because he could see the person's head and shoulder over the roofline of the Toyota. (Att. 135)

In a subsequent interview on 17 February 2015, Officer B discussed how he believed

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

Civilian 5 sustained an abrasion to his right cheek. According to Officer B, when Officer A started discharging his weapon, Officer B thought of the possibility that someone else might be firing. In reaction to hearing the shots fired, Officer B “went to the ground.” According to Officer B, he was unsure whether “he [Civilian 5] jumped, or I jumped, or – we both went to the ground.”⁵ Officer B added, “I wanted to get myself, along with him, out of the line of any fire, or possibly shot, or getting shot.”⁶ According to Officer B, he was unsure as to whether Civilian 5 struck his face on the ground. Once the other police vehicles arrived, Officer B went to help get other people out of the offender’s vehicle. Officer B handed off Civilian 5 to other officers who were on the scene. Officer B did not recall exactly who he handed Civilian 5 to. Officer B denied that he used force or stuck Civilian 5 while placing him under arrest. Officer B also stated that he did not witness any other officer strike Civilian 5. (Att. 162)

In a subsequent IPRA interview on 25 May 2016, Officer B stated that he did not complete and submit a Tactical Response Report because he believed his interactions with Civilian 5 did not require him to do a TRR. Officer B further explained that he believed no TRR was necessary because “the force that was used was not used to effect the arrest’ but rather “to preserve life and to protect him from any further possible injuries.” Officer B further stated that, at the time of the incident, he did not observe any injuries to Civilian 5 that he believed attributable to his use of force, nor did he observe any injuries to Civilian 5’s face. (Att. 185)

IPRA investigators conducted a **canvass** on 23 December 2013, at approximately 1140 hours with the following results: No answer at XXXX S. LaSalle Street; Civilian 8 of XXX S. LaSalle Street, stated that he did not witness the incident; Civilian 9 of XXXX S. LaSalle Street, stated that she did not witness the incident; Civilian 10 of XXXX S. LaSalle Street, stated that he did not witness the incident. In addition, Store Owner 1, owner of XXX/XXXXXXXXX Food & Liquor at XXX W. 95th Street, stated that the store’s exterior cameras faced the wall of the building and the sidewalk on 95th Street, and, therefore, would not have captured the incident. Civilian 11, of XXX W. 94th Street, stated that he was parking his van in the vicinity of the incident, but he did not witness the events that occurred. (Att. 25)

Area South detectives conducted a canvass on 22 December 2013, at approximately 1708 hours. Detectives B and A interviewed several residents from the XXXX block of S. LaSalle Street. Several of the residents stated that they heard between 8 to 10 shots fired, but none of them actually witnessed the shooting. (Att. 113)

In a report submitted by the reporting Investigator, the attorney representing Subject 2, Attorney 1, informed the Reporting Investigator that Subject 2 would not provide a statement to IPRA. (Att. 115)

In a report submitted by the Reporting Investigator, Subject 1 under advice of his attorney, declined to provide a statement. (Att. 144)

In a report submitted by the Reporting Investigator, Civilian 1’s father, stated that if the R/I wanted to talk to his son it would have to be through his attorney. No statement was

⁵ Transcript of Officer B, Att. 162, Page 8, Line 23-23.

⁶ Transcript of Officer B, Att. 162, page 8, line 18-24, page 9, line 1.

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

taken. (Att. 104)

IPRA investigators, including the Reporting Investigator, made various unsuccessful attempts to secure an interview with **Civilian 5**, who was a juvenile at the time. Early on in the investigation, on 23 December 2013, IPRA investigators made a personal visit to Civilian 5's residence, an apartment building. The Reporting Investigator also sent letters to Civilian 5's parents/guardians via USPS. In addition, in February 2014, the Reporting Investigator made a personal visit to two addresses last identified as Civilian 5's residence. Despite all attempts the parents/guardians of Civilian 5 did not respond to the IPRA's request for their cooperation. (Att. 28, 82, & 103)

In a statement to IPRA on 14 February 2014, Civilian 3 stated that she was one of five people seated in the back seat of the vehicle. According to Civilian 3, a total of seven people were in the vehicle. The vehicle was traveling southbound on LaSalle towards 95th Street when a police vehicle pulled the vehicle over. Civilian 3 stated that the driver of the vehicle jumped out and ran. Civilian 3 that a passenger near the rear driver's side was partially out of the vehicle and his leg got stuck. Civilian 3 recounted that someone from the back seat hopped over the front seat and put the car in reverse. Civilian 3 stated that when the car began reversing the police began shooting at the car. Civilian 3 stated that two people were shot, and an ambulance was called and they were taken away. Everyone else was transported to the 5th District Police Station. (Att. 112)

The Reporting Investigator obtained the Electronic Recorded Interview (ERI) of Civilian 4, as conducted by Area South detectives on 23 December 2013. According to Civilian 4, just prior to the shooting incident, "Civilian 1" was driving and "Civilian 5" was the front passenger. Civilian 4 was a rear passenger on the driver's side; "Civilian 3" was seated next to him, "Civilian 2" and "Subject 1" were seated on the rear passenger side. "Civilian 1" drove to 67th Street and Paxton and picked up Civilian 12. Civilian 12 sat between "Civilian 2" and "Subject 1." "Civilian 1" then drove to 84th Street and Marquette and picked up "Subject 1." The group was headed to "Civilian 1's" house when they saw the police and the police were flashing their lights. "Subject 1" went into the front seat while Civilian 4 remained closest to the rear driver's side door. The police car was facing the car they were in. "Civilian 1" stopped the car and got out of the car. The car started to move and bumped into a parked car. According to Civilian 4, he and "Subject 1" were trying to get the passenger door open but it was stuck. Civilian 4 stated that he stood up in the doorway of car with his left foot out of the car and right foot inside the car. Civilian 4 stated that he was stuck between the car and the parked car and he yelled out that he was stuck. "Subject 1" went from the back seat to the driver's seat and he began moving the car in reverse. The police told "Subject 1" to stop. As the car continued to move, Civilian 4. never got back in the car. At first the car was not going fast but it began picking up speed. The car swerved over. Civilian 4 hopped out of the car and that is when the officer started shooting. (Att. 119)

The following is a summarization of the ERI of Civilian 2, as conducted by Area South detectives on 23 December 2013: According to Civilian 2, "Civilian 1" was driving with "Civilian 5" as the front passenger. Civilian 2 was seated in the middle of the back seat. To the left of Civilian 2 sat "Subject 1" and next to him was "Civilian 4." To the right of Civilian 2 sat "Civilian 3" and "Civilian 12." "Civilian 1" drove the car around for awhile. As they were pulling out of the alley on to LaSalle, a police car was facing the car they were in. "Civilian 1" stopped the car, got out, and ran. "Civilian 12" got out of the car and ran. No one else could get out of the car because the car was moving backward. The car hit another parked car. As the car

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

moved forward, “Civilian 5” was partially out of the car with his leg and foot dragging on the street. “Civilian 4” exited the rear driver’s side door, and was stuck between the car and the parked car, and he yelled he was stuck. Civilian 2 then demonstrated to the detectives how “Civilian 4” stood up in the doorway of the car with one foot out and the other foot inside of the car. “Civilian 4” could not get in or get out of the car because there was not enough room for him to squeeze through. The police told them not to move, or they would shoot. No one in the car moved. “Subject 1” began moving the car in reverse. “Subject 1” was trying to help “Civilian 4” by moving the car in reverse to free him from being stuck. The police shouted to stop the car. The car did not stop and then the police began shooting. (Att. 121)

In a Statement to IPRA on 27 December 2013, Civilian 6 stated she and her boyfriend, Civilian 7, were driving eastbound in an alley north of 95th Street at LaSalle Street. Civilian 6 stated that she was the driver of the vehicle. As she approached the mouth of the alley preparing to make a right turn onto LaSalle Street, from the west side of the street, Civilian 6 saw a police officer chasing a young boy eastbound through the alley, east of LaSalle Street. According to Civilian 6, as she was about to go around the police vehicle, she saw an unknown white male police officer slamming a boy against the Toyota vehicle. Civilian 6 further stated that after seeing what the police officer was doing to the boy she reversed her vehicle onto LaSalle Street. A second police vehicle arrived on the scene, and that is when Civilian 6 heard gun shots. Civilian 6 stated that she did not actually see which officer fired his weapon. Civilian 6 stated that she saw one of the occupants from the Toyota wedged in between the cars. Civilian 6 stated that as she put her vehicle in reverse the officer fired six or seven rounds in what she believed to be in her direction. Civilian 6 stated that as she drove her vehicle in reverse and her vehicle struck the front end of a parked minivan. (Att. 54)⁷

In a statement to IPRA on 26 December 2013, Civilian 7 gave an account of the events that was generally similar to that provided by his girlfriend, Civilian 6. Civilian 7 stated that he also observed an unknown white male police officer slam a male youth’s head against the trunk of the Toyota. (Att. 60)⁸

Office of Emergency Communications (OEMC) and Event Queries documented radio transmissions between the dispatcher and responding police units, and then reported shots fired by the police at XXXX S. LaSalle Street. (Att.’s. 32, 34-44)

Evidence Technician Photographs documented the shooting scene, a replica gun, spent cartridge casings, and bullet holes in the Toyota. (Att. 31)

A Chicago Fire Department EMS Report documented that CFD Ambulance #60 responded to the scene and paramedics found Subject 1 with a gunshot wound to his right shoulder, entrance and exit. CFD Ambulance #29 responded to the scene and paramedics found Subject 2 with a gunshot wound to his left thigh and his right foot. (Att.’s 66, 67)

Medical Records for Subject 1 from Advocate Christ Hospital documented that Subject 1 was seen and treated by Doctor 1 of the Emergency Room. According to medical records, Subject 1 was treated for a gunshot wound to his right shoulder. The bullet wound was described as a “through and through.” Subject 1’s wound was treated and bandaged and he was released. (Att.94)

Medical Records for Subject 2 from Advocate Christ Hospital documented that

⁷ Although Civilian 6 alleged that she witnessed mistreatment of unknown male arrestees, it should be noted that none of the arrestees made any allegation of being mistreated during their video interview with area detectives.

⁸ The same held true for the Civilian 7’s account as to what he saw. None of the arrestees alleged that they were mistreated by any police officers.

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

Subject 2 was seen and treated by Doctor 2 of the Emergency Room. According to his medical records, Subject 2 was treated for a gunshot wound to his left thigh and his right foot. A CT scan of Subject 2's right foot and ankle documented that there were small traces of bullet fragments in the soft tissue of his foot. A CT scan of his left thigh documented that there was no fracture or no bullet fragments in the thigh area. Subject 2's wounds were treated and bandaged, and he was released. (Att. 95)

Medical Records for Civilian 5 from Little Company of Mary Hospital documented that Civilian 5 was seen and treated by Dr. Saiman Mamdani of the Emergency Room. According to his medical records, Civilian 5 was treated for an abrasion to his right cheek area and pain to his left leg area. A CT scan of Civilian 5's right eye showed orbital swelling with no fractures or no globe rupture, lens in proper position. A radiology report of Civilian 5's left leg showed no evidence of any fractures. (Att. 155)

Crime Scene Processing Report documented that the stolen Toyota, one Crosman, Model 357, 177 caliber BB gun, and Officer A's weapon were processed. (Att. 30)

Inventory Reports documented that Officer A's weapon, one Crosman, Model 357, 177 caliber BB gun, and several fired bullet fragments were inventoried. (Att. 74)

A Laboratory Report from the Illinois State Police, Division of Forensic Services, dated 16 January 2014, documented that two bullets were fired from Officer A's weapon. Also submitted and examined were sixteen Winchester 9mm Luger caliber fired cartridge case and a Sig Sauer, model P226, 9mm Luger caliber semiautomatic pistol serial # XX XXXXXX, two magazines and fifteen Winchester 9mm Luger +P caliber unfired cartridges. (Att. 92)

APPLICABLE RULES/DIRECTIVES

At the time of the incident, the Chicago Police Department General Order 03-02-03 Deadly Force, in relevant parts, states as follows:

Section II. Department Policy

A. "A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or;
2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

B. Firing at or into a moving vehicle is 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."

Section III. Department Prohibitions For Use Of Deadly Force

"Use of firearms in the following ways is prohibited:

- C. Firing into buildings or through doors, windows, or other openings when the

person lawfully fired at is not clearly visible.”

Section 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.”

CPD General Order G03-02-01, Section II, C, Use of Force Model, states as follows:

“When force is applied, a member will escalate or de-escalate to the amount of force which is reasonably necessary to overcome the subject’s resistance and to gain control...Members will modify their level of force in relation to the amount of resistance offered by the subject. As the subject offers less resistance, the member will lower the amount or type of force used.”

ANALYSIS OF THE SHOOTING

Based on the totality of the circumstances, Officer A’s use of deadly force was objectively unreasonable and inconsistent with Department policies because a reasonable officer under the same circumstances would have recognized that: (1) there was no imminent threat of death or bodily harm to himself or the other officers; (2) disabling the operator of the moving vehicle would have been unlikely to prevent possible injury to the passenger who was hanging out of the car; (3) the risk of harm to the multiple passengers in the vehicle outweighed the probability of being able to prevent injury to the passenger hanging onto the car; and (4) the continued firing at the vehicle presented significant risk of injury to the multiple passengers in the vehicle. In addition, the manner in which Officer A fired his weapon was inconsistent with Department policy and training.

(1) There was no imminent threat of death or bodily harm to Officer A or any of the other involved officers.

As stated above, one reason that Officer A offered that he fired his weapon was to prevent the driver from hitting him or the other officers with the car. The video clearly shows that neither Officer A nor any of the involved officers were at risk of being harmed by the traveling vehicle. None of the officers were in the path of the Toyota/at risk of being harmed by the Toyota. Nonetheless, it is clear from the video that Officer A has his weapon up and in a side aiming position when he approaches the Toyota. You next see him take two quick steps back to move out of the reversing Toyota’s way. At this point in the video, Officer A no longer has his weapon pointing at the Toyota. Rather, his weapon is at his side. There is a notable pause in Officer A’s actions before he aims his weapon again and he begins simultaneously walking towards and shooting at the Toyota. Even if the driver of the Toyota had been using the vehicle as deadly force, the Department policy requires that “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.”

(2) A reasonable officer under the circumstances would have realized that using deadly force against the operator of the vehicle was unlikely to prevent injury to the passenger who was hanging onto the vehicle.

According to Officer A he fired at or into the vehicle in an attempt to disable to the driver to prevent one of the passengers from being dragged. More specifically, Officer A’s explanation for his extensive use of deadly force is summarized here:

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

“I emptied my clip, I fired 16 rounds in order to stop the threat, which was to neutralize the driver at the time, and from hitting me, the officers near me, crashing the vehicle, and the teenage boy that was being dragged, that was in the back seat. He was being dragged down the street, in order, I didn’t want for him to be killed, or get pinned, or dragged under the car or anything like that. That’s why I fired 16 times into the vehicle, actually into the direction of the driver.”⁹

This explanation belies logic. First, the person operating the vehicle to start with was not even in complete control of the vehicle. As outlined above, several witnesses state that the individual was operating the accelerator with his hands, and was therefore, not in complete control of the vehicle. By firing into the vehicle, the officer would at best disable this person, thereby leaving the vehicle without any human control. Moreover, by firing at and into the vehicle the officer would like cause the passengers, including the person in partial control of the vehicle to panic to avoid being hit by gunfire, which would make the situation even more dangerous for the individual the officer claims he was trying to save from injury.

Officer A also stated his concern was for the life and safety of “the teenage boy...that was in the back seat. He was being dragged down the street.” While the Toyota was reversing, the video shows that the teenager’s torso was protruding from the rear left side, behind the driver’s side window. Officer A stated that he saw the back-seat passenger hanging halfway out the window yelling for help. (Att. 142) However, on the video, it does not appear that the teenager was “being dragged down the street”. It is clear from the video that the teenager’s torso is half way out but then the teenager disappears from the video as the Toyota begins moving backwards. After the Toyota finishes reversing backwards and starts rolling forwards (towards the light pole), the left side of the Toyota is no longer visible to Officer A. The left side of the Toyota (where the teenager once was) is farthest away from Officer A. As he continues walking towards and firing at the Toyota, the left side of the vehicle is not visible. Thus it would not be clear to Officer A if the teenager is still being “dragged” from where he is standing. Officer A also does not make any movements towards the back or left side of the car to see if the teenager is still being “dragged” nor does he pause in his shootings. Officer A’s attempts to stop the car by shooting at the driver were unreasonable under the circumstances.

(3) Officer A needlessly and carelessly placed every individual in the Toyota at risk of being injured or killed.

The video makes clear that there were a number of passengers in the backseat of the vehicle and Officer A acknowledged seeing them. Officer A’s firing 15 rounds into the vehicle resulted in the injury of two passengers; many more could have been hurt or killed. This was an unnecessary and careless act on his part.

(4) Officer A’s continued and extended firing at and into the vehicle was objectively unreasonable.

As the Toyota sedan rolled forward and hit the light pole head-on, the driver of the Toyota posed no imminent threat of death or great bodily harm to any person, and the driver appeared to have abandoned any efforts to flee. Officer A nevertheless continued firing, and, by his own admission, stopped firing only when he had “emptied [his] clip.” Officer A continued firing even though the Toyota stopped, changed direction, rolled slowly forward across the street, and

⁹ Transcript of Officer A’s statement, Evidence Attachment # 183, Page 16, lines 3 -12.

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

crashed into the light pole. In his own statement to IPRA, Officer A states: “As the vehicle’s in motion, in reverse, I’m approaching the vehicle, firing at the driver”. Officer A maintains that the driver is a threat to him and that the vehicle is being “utilized as weapon by the driver”. However, Officer A readily acknowledged that the vehicle was being driven in reverse (in the opposite direction of where Officer A was), that he was approaching the Toyota, and that there was approximately 20 feet between himself and the Toyota. At one point, IPRA asks Officer A: And the vehicle was backing away from you? Answer: Away from me, yes sir. Officer A readily acknowledged that he continued to fire at the Toyota, and stating that the driver was a danger, even when it became perpendicular to the street. Officer A states: “He was still attempting to flee.”

Under Section II of the Deadly Force Policy: “A sworn member is justified in using deadly force if it 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, threatened infliction,
- b. or threatened use of physical force likely to cause death or great bodily harm or; is attempting to escape by use of a deadly weapon or;
- c. otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.”

Under Section II (a), deadly force is permitted to prevent the escape of an arrestee who has committed a forcible felony. Here, there was insufficient information from which Officer A could reasonably presume that the driver of this vehicle had committed a forcible felony. This incident occurred after the officers responded to reports of a possible stolen vehicle. Stealing a car, without more is not a forcible felony. Under Section II (b), deadly force is permitted to prevent the escape of an arrestee who is attempting to escape by use of a deadly weapon. Here, there was no use of a deadly weapon against the officers. Although there was a replica firearm recovered from one of the passengers, there is no evidence to suggest that Officer A fired his weapon because he saw someone in the car wielding an object that looked like a firearm. Moreover, despite Officer A’s claims that the Toyota was being used as deadly force against him and his partner, the video evidence shows otherwise. However, it is clear from the video and again from Officer A’s own testimony, that the Toyota was moving away and that there was distance between the Toyota and the Officers. Under Section II(c), deadly force is permitted to prevent the escape of an arrestee who otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay. As outlined above, if the Toyota was moving towards the Officers or if the passenger was being dragged in the video—then perhaps the use of force was justified—but this was not the case.

CONCLUSION AND FINDINGS:

Accused Officer #1: Officer A

Allegation #1, Count 1: Sustained. Violation of Rule 6: “Disobedience of an order or directive, written or oral” in that on 22 December 2013, at approximately 1706 hours, in the vicinity of XXXX S. LaSalle Street, while on duty, Officer A disobeyed General Order 03-02-

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1066725, U#13-42

03, Section II, B when he used deadly force against Subject 1, Subject 2, Civilian 2, Civilian 3, and Civilian 4.¹⁰

Count 2: Sustained. Violation of Rule 6: “Disobedience of an order or directive, written or oral” in that on 22 December 2013, at approximately 1706 hours, in the vicinity of XXXX S. LaSalle Street, while on duty, Officer X disobeyed General Order 03-02-03, Section III, C when he used deadly force against Subject 1, Subject 2, Civilian 2, Civilian 3, and Civilian 4, who were inside a vehicle moving away from Officer A.

Allegation # 2: Sustained. Violation of Rule 38: “Unlawful or unnecessary use or display of a weapon” in that on 22 December 2013, at approximately 1706 hours, in the vicinity of XXXX S. LaSalle Street, while on duty, Officer A unlawfully and unnecessarily discharged his firearm into a vehicle that was moving away from him.

Other Violation: Sustained. Violation of Rule 2: “Any action or conduct which impedes the Department’s effort to achieve its policy and goals or brings discredit upon the Department” in that on 22 December 2013, at approximately 1706 hours, in the vicinity of XXXX S. La Salle Street, while on duty, Officer A brought discredit upon the Chicago Police Department when he used deadly force by displaying and discharging his firearm at a vehicle that contained Subject 1, Subject 2, Civilian 2, Civilian 3, and Civilian 4.

Accused Officer #2: Officer B

Allegation #1: Unfounded. The Responding Investigator recommends a finding of **Unfounded for Allegation # 1**, that on 22 December 2013, at approximately 1706 hours, while in the vicinity of XXXX S. LaSalle Street, Officer B failed to complete and submit a Tactical Response Report (TRR) reporting his use of force during his encounter with Civilian 5. Officer B recalled taking Civilian 5 with him to the ground in an instinctive effort to seek cover and protect himself and Civilian 5 from Officer A’s gunfire. Moreover, neither Civilian 5 nor any of the other juveniles present complained of any misconduct by Officer B. The minor injuries described in Civilian 5’s medical records are consistent with Officer B’s and Civilian 5’s description of events.

Situations in which officers must complete a TRR are codified in Section II of General Order G03-02-05. Although this delineation is not explicit, it is clear from that list of situations that the TRR requirement is applicable only when force is used to counter a subject’s efforts to resist arrest. Nothing in General Order G03-02-05 requires TRR documentation of contact an officer makes with a citizen to protect that citizen during an emergency, nor of any other type of incidental contact. Officer B was not required to complete a TRR under these circumstances, and his instinctive efforts to protect Civilian 5 are commendable.

¹⁰ The investigation indicates that Civilian 1 and Civilian 5 exited the Toyota before Officer A began firing.