

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

**INVESTIGATION**

**NUMBER:** Log #1068271  
U #14-010

**INVOLVED OFFICER #1:** “Officer A” (Chicago Police Officer); Male/Hispanic; On-Duty; Civilian Clothes; Year of Appointment – 2005

**OFFICER #1’s WEAPON:** Glock Model 21; 9mm semi-automatic pistol; 4 live rounds recovered from firearm; weapon capacity of 13 + 1 rounds; all ammunition Winchester 45; Fired ten (10) times.

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

**SUBJECT:** “Subject 1”; Male/Black

**SUBJECT’S INJURIES:** Multiple gunshot wounds about the body; Fatal.

**SUBJECT’S WEAPON:** Glock Model 22; .40 caliber semi-automatic pistol

**LOCATION:** XXXX S. Rhodes Avenue.

**DATE/TIME:** 29 March 2014, 0849 hours

**TIME OF IPRA NOTIFICATION:** 0925 hours

**TIME OF IPRA RESPONSE:** 0955 hours

## INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

### **INTRODUCTION:**

On 29 March 2014, at approximately 0849 hours, members of the Chicago Police Department attempted to conduct a field interview with Subject 1 in the area of 62<sup>nd</sup> and Rhodes Avenue, after observing him involved in a potential hand-to-hand transaction. Subject 1 fled on foot and was pursued by Officer A. It is reported that during the ensuing foot chase, Subject 1 pointed a firearm at Officer A. Officer A discharged his service weapon multiple times, striking Subject 1 and causing his death.

### **APPLICABLE RULES**

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

### **SUMMARY OF INCIDENT**

At approximately 0849 hours, Officer A and Officer B were on routine patrol working Beat XXXX. The officers were in an unmarked car and Officer A was driving. As Officers A and B drove south in the area of XXXX S. Eberhart Avenue, they observed what they believed to be a hand-to-hand drug transaction occurring between Subject 1 and an unknown black male near the middle of the block between 62<sup>nd</sup> and 63<sup>rd</sup> Street. As the officers approached Subject 1 and the unknown black male, the unknown black male walked north on Eberhart, got into a parked car, and drove north on Eberhart Avenue. Subject 1 quickly walked south on Eberhart Avenue and Officer A, who was still in the unmarked squad car, called out to Subject 1 and told him to stop. Subject 1 did not comply and entered the front door of XXXX Eberhart Avenue. Officers A and B then exited their vehicle. Officer A went up to the door of XXXX S. Eberhart Avenue, but could not gain entrance because the door was locked. Officer A was able to observe Subject 1 enter the first floor apartment. Officer B then walked north of XXXX S. Eberhart Avenue and observed Subject 1 running from the rear of the home, through the backyard of XXXX S. Eberhart Avenue, and across the alley.

At that time, both officers got back into their squad car and drove south on Eberhart Avenue and then east through the east-west alley towards Rhodes Avenue in an effort to locate Subject 1. When the officers got to the XXXX block of South Rhodes Avenue, they observed Subject 1 walking on the east side of the street, between XXXX and XXXX S. Rhodes Avenue. As Officer A exited the police vehicle, Subject 1 fled north on Rhodes Avenue while holding his right side. Officer A pursued Subject 1 on foot, while Officer B entered the driver's seat of the unmarked vehicle and drove towards the alley west of Rhodes Avenue to cut off Subject 1's path of travel. Subject 1 changed his direction and ran west on Rhodes Avenue through a vacant lot. Subject 1 then jumped over a silver chain-link fence behind XXXX S. Rhodes Avenue, crossed the back yard, and jumped over the fence behind XXXX S. Rhodes Avenue. Officer A proceeded to the front of XXXX S. Rhodes Avenue, while Officer B was in the alley behind the same residence.

## INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

Subject 1 continued running towards the front of XXXX S. Rhodes Avenue, through the north gangway. Officer A intercepted Subject 1's flight as he was attempting to run through the gangway. Officer A could clearly see a gun in Subject 1's hand and Officer A ordered him to drop the weapon. Subject 1 did not comply, but instead turned towards Officer A with the gun in his hand and pointed his weapon at Officer A. Officer A, in fear of his life, fired his weapon several times striking Subject 1 multiple times. Subject 1 dropped the weapon, turned, ran several feet, and collapsed in the backyard of XXXX S. Rhodes Avenue. Subject 1 was subsequently pronounced dead on the scene.

### **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. #4, 38)

According to **CPD Reports** under RD #XXXXXXXXX indicate that Subject 1 was in possession of a loaded Glock 22 .40 Caliber, which was recovered from the ground immediately to the west of a wrought-iron gate in the north gangway of XXXX S. Rhodes. This firearm was equipped with a Sight Mark laser sight mounted on the underside of the handgun frame, as well as a black Smith & Wesson thirty-round extended-capacity magazine. Evidence technicians discovered one live ammunition cartridge in the chamber of the Glock 22, as well as ten live ammunition cartridges in the magazine. (Atts. #4, 5, 8, 9, 12, 13, 14, 17, 18, 35, 36, 38)

The **Tactical Response Report (TRR)**, completed by Officer A related that Subject 1 did not follow verbal direction, fled, posed an imminent threat of battery, and pointed a semi-automatic weapon in the direction of Officer A. Officer A responded with member presence, verbal commands, and the discharge of his firearm. (Att. #8)

According to the **Officer's Battery Report (OBR)**, on the date, time and location of the incident Officer A was with one partner (Officer B) in citizen's dress investigating a possible drug transaction. Subject 1 pointed a weapon in Officer A's direction. Officer A did not sustain any injuries. (Att. #9)

**Evidence Technician Photographs** document the scene and the body of Subject 1. The photographs include multiple pictures of the Glock 22 .40 caliber semi-automatic handgun allegedly possessed by Subject 1 and the associated ammunition. The Glock 22 was recovered from the ground immediately to the west of a wrought-iron gate in the north gangway of XXXX S. Rhodes (see p. 11 of Att. 29 at Evidence Marker #11). A dark-colored Samsung flip-style cellular phone was recovered approximately one foot to the south of the Glock 22. (Atts. #25-29)

The **OEMC and PCAD reports** were collected and made part of this case file. It is noted that several anonymous callers to 911 reported hearing gunshots in the area, but

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

not seeing anything related to the shooting. Attempts to identify and contact these callers were made by IPRA investigators, with negative results. (Atts. #35, 36, 58)

The OEMC transmissions document the involved officers in the foot pursuit of a black male wearing a red jacket and blue jeans, as they announce they are running northbound. Approximately 27 seconds after this first transmission, the officers announce “shots fired by the police.” The officers then request that EMS be sent to the area of XXXX S. Rhodes Avenue, as a person had been shot.

The **Chicago Fire Department Ambulance Report** documented that EMS was dispatched to XXXX S. Rhodes, at approximately 0850hours. (Att. #37)

**Illinois State Police (ISP) Forensic Science Laboratory Reports** document the forensic examination of the recovered firearm-related evidence. A firearms specialist examined the Glock 22 pistol reportedly possessed by Subject 1, and determined that it was operable (able to be fired) and equipped with a laser sight. The firearms specialist also determined that the extended magazine fit the Glock 22 but was broken and therefore not functional upon arrival at the ISP Laboratory. The report offered no explanation as to when or how the extended magazine had become nonfunctional. (Atts. #40, 47, 48)

The firearm specialist also examined Officer A’s Glock 21 .45 caliber semi-automatic pistol as well as casings and bullet fragments recovered at the scene. The firearms specialist determined that one fired bullet jacket and one fired bullet fragment recovered from the scene were damaged to an extent that precluded any determination as to which weapon had fired them. However, the firearms specialist determined that all of the remaining cartridge casings recovered at the scene of this event were fired from Officer A’s weapon. (Atts. #40, 47, 48).

A fingerprint specialist examined the Glock 22 pistol, extended magazine, laser sight and 11 live (unfired) cartridges reportedly possessed by Subject 1, and found no latent impressions suitable for comparison. (Att. #46)

According to a **CPD Case Supplementary Report dated 31 December 2015 (Att. 62)**, forensic testing determined that the Glock 22 pistol reportedly possessed by Subject 1 had been used in two prior violent crimes.

The first associated crime occurred on 6 June 2013 at 7959 S. Manistee in Chicago, where an assailant shot at a CPD officer in a covert police vehicle. (RD #HW-307090) The vehicle was struck by gunfire, and the officer suffered minor injuries from bullet fragments and shattered glass. Toolmark analysis determined that the cartridge casings recovered at that scene had been fired from the Glock 22 reportedly possessed by Subject 1 at the time of his death.

The second associated crime occurred on 23 March 2014 at XXX W. 61<sup>st</sup> Street in Chicago, where an assailant fired several shots at three individuals standing on the street. (RD #HX-195418) All three individuals were wounded. This crime was committed six

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

days before the Glock 22 was recovered from Subject 1 at the time of his death. Toolmark analysis determined that the cartridge casings recovered at that scene had been fired from the Glock 22 reportedly possessed by Subject 1 at the time of his death.

A **Social Media Search** by Supervisor A produced the discovery of multiple photos posted to Facebook featuring photographs of Subject 1. The photographs depict Subject 1 posing with several different firearms. One of the photographs features Subject 1 holding a firearm that appears to be a Glock, with an extended magazine. It is noted that the weapon featured in the photograph is consistent in appearance with the weapon reportedly possessed by Subject 1 at the time he was shot. (Att. #60)

A **Case Supplementary Report (Att. 64)** indicates that CPD detectives conducted a canvass of the area immediately after the incident in an attempt to locate any individuals who may have witnessed the incident. Detectives interviewed the following residents of the first-floor apartment of XXXX S. Eberhart:

- **Civilian 1** told detectives in her first interview that she heard gunshots at the time of the incident, but that no one had ever entered or exited the rear of her residence. During her second interview, Civilian 1 again said she had heard about six gunshots followed by sirens, but that she had stayed in her bedroom and did not see what transpired in her residence. However, she had spoken with other people in the apartment since the first interview, and learned that her nephew Civilian 2 had opened the door and admitted her son Civilian 3's friend. The friend had departed prior to the gunshots. Civilian 1 did not know the friend's name.
- **Civilian 2 (14 years old)** statement redacted.
- **Civilian 3 (16 years old)** statement redacted.
- **Civilian 4 (17 years old)** statement redacted.

**Investigators conducted a canvass**, in an attempt to locate additional witnesses and/or evidence. No additional witnesses or information were discovered. (Atts. #48)

**Attempts to interview Civilian 3 and Civilian 4** were made. On 14 May 2015 the R/I and Inv. A conducted a personal visit to Civilian 3 and Civilian 4 at their home located at XXXX S. Rhodes. The R/I observed a brown three (3) flat brick building with a wrought iron fence and locked gate. The R/I left a business card taped to the fence by the entryway requesting Civilian 1, or her sons, contact IPRA. The R/I telephoned Civilian 1 and was told that the R/I had the wrong number. The R/I later sent Civilian 1 (mother of Civilian 3 and Civilian 4) a letter requesting her son's cooperation with this investigation. As of the date of this summary, neither Civilian 1, Civilian 4, nor Civilian 3 has contacted IPRA. (Atts. #53, 56)

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

**Attempts to interview Civilian 2** were made. On 14 May 2015 the R/I and Inv. A conducted a personal visit to Civilian 2 at his home located at XXXX S. Yates. The R/I observed a multi-unit building with a green wrought iron fence and locked gate. The R/I could not find Civilian 5 name on the bell and therefore left a business card taped to the bell system requesting that Civilian 5 or Civilian 2 contact IPRA.

On 1 April 2014, The R/I telephoned Civilian 5 and spoke with a female who refused to give her name and stated Civilian 5 was unavailable and terminated the call. The R/I later sent Civilian 5 (mother of Civilian 2) a letter requesting her son's cooperation with this investigation. As of the date of this summary, neither Civilian 5 nor Civilian 2 has contacted IPRA. (Atts. #54, 55)

**The Medical Examiner's Report and Photographs** documents the postmortem examination of Subject 1. The report indicates a gunshot wound on the middle right side of Subject 1's back and a corresponding exit wound on the middle right side of his torso; an entrance gunshot wound on the back of the right thigh and a corresponding exit wound on the front of the right thigh; and an entrance gunshot wound on the upper right shoulder and a corresponding exit wound on the right armpit. There was an entrance gunshot wound on the back of Subject 1's right hand and a corresponding exit wound on the front of the right palm; and another entrance gunshot wound was observed on the back of Subject 1's left hand and a corresponding exit wound on the front palm. The medical examiner also noted a gunshot graze wound on top of Subject 1's head, and abrasions on his right thigh, penis, neck, and upper right shoulder.

It should be further noted that one of the bullets went through Subject 1's lungs and heart before it exited. Additionally, a copper jacket from a fired bullet was recovered from Subject 1's coat. A bullet fragment was recovered from Subject 1's right upper arm. None of the bullet wounds showed any evidence of close-range firing. The cause of death was multiple gunshot wounds, with the manner being ruled a homicide. Postmortem toxicology testing found no evidence that Subject 1 had used alcohol, cocaine or opioid immediately prior to his death. (Atts. # 21, 39, 52)

On 20-21 June 2016, Assistant Medical Examiner Doctor 1 reviewed his autopsy report and photographs with investigators and answered their follow-up questions. These interviews were summarized in Att. #65.

Assistant Medical Examiner Doctor 1 noted ten bullet wounds to Subject 1's body, which indicates that all of Officer A's shots struck Subject 1. Doctor 1 described the wounds as follows (Att. 39)<sup>1</sup>:

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<sup>1</sup> Doctor 1 confirmed that although each individual gunshot wound is identified by a number in his report, the wounds are not identified or described in any particular order (for example, not set forth in order of severity or in an order that suggests the order in which the gunshot wounds were created). He also stated that there is no way to determine the order in which the bullets struck the body. (Att. #65)

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

1. “A grazing gunshot wound coursing from back to front” “on the top of the head in the midline.” “The wound caused injury to the skin and soft tissue with no injury to the skull.” See photos at p. 42-43 of Att. 52.
2. “A perforating gunshot wound” entering the shoulder-blade area of the upper back 1.0 inch to the left of the posterior midline, traveling right to left and downward, and exiting the shoulder-blade area of the upper back “3.5 inches to the left of the posterior midline”. See photos at p. 31, 57 of Att. 52. The entrance wound had a 0.3 inch margin of abrasion “from the 12 o’clock to 6 o’clock position” (i.e., around the right half of the wound).
3. A perforating gunshot wound entering the middle of the back (parallel with elbow) 1.2 inches to the left of the posterior midline, traveling back to front and upward, and exiting the chest 2.5 inches to the left of the anterior midline, near the left nipple. See photos at p. 7 and 58 (rod) of Att. 52. The entrance wound had a 0.1 inch margin of abrasion.
4. A perforating gunshot wound entering the back of the upper right thigh, traveling back to front and downward, and exiting the front of the right thigh. The entrance wound had a 0.1 inch margin of abrasion. See photos at p. 9, 58 of Att. 52.
5. A grazing gunshot wound to the back. The direction of the bullet cannot be determined.
6. A perforating gunshot wound entering the back of the right shoulder 8.0 inches to the rights of the posterior midline, traveling slightly right to left and downward, and exiting 4.0 inches beneath the top of the right shoulder.
7. A perforating gunshot wound entering the front of the right shoulder 1.0 inch beneath the top of the right shoulder, traveling downward, and exiting on the back of the right upper arm 5.0 inches beneath the top of the right shoulder. See photo at p. 96 of Att. 52. 44-47.
8. A perforating gunshot wound entering the front of the right shoulder 1.5 inches beneath the top of the right shoulder, traveling downward, and exiting on the inside of the right upper arm 4.0 inches beneath the top of the right shoulder. See photo at p. 7 of Att. 52.
9. A grazing gunshot wound leaving two defects on the right side of the chest below the armpit. The wound course is upward. See photo at p. 97 of Att. 52.
10. A perforating gunshot wound entering the back of the left hand, traveling back to front, exiting the palm of the left hand, re-entering the palm of the right hand, and re-exiting the back of the right hand at the base of the thumb. See

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

photos at p. 77-79, 90-93 of Att. 52. The entrance wound had a 0.3 inch margin of abrasion from the 10 o'clock position to the 2 o'clock position.

Doctor 1 found that none of the wounds displayed evidence of close-range firing, and saw no evidence that any of the bullets struck bone other than that which caused Wound #10.

**In his statement to IPRA on 29 March 2014, Witness Civilian 6** stated that he was leaving his fiancé's house while looking at his phone when he observed a light skinned black male wearing a colorful jacket, now known as Subject 1, on the east side of the street, when a squad car pulled up in the alley and stopped. Civilian 6 stated a Hispanic officer wearing a vest with a radio in his hand, now known as Officer A, jumped out and began chasing Subject 1. Civilian 6 related that Subject 1 ran past him going west with Officer A in pursuit. Officer A ran through an empty lot and was simultaneously announcing his direction of pursuit over the radio. Civilian 6 stated the squad car was on the Westside of the "T"<sup>2</sup> alley between Eberhart and Rhodes.

Officer A ran through the empty lot, but turned around and started to look between the gangways while talking over the radio. Civilian 6 began to walk across the street when he heard between four to ten gunshots. Civilian 6 related he did not witness Officer A fire his weapon. Civilian 6 turned around and began recording the incident on his Galaxy Note 2 cellular phone. Civilian 6 walked towards the gangway at XXXX S. Rhodes while Officer A was coming out of the gangway and talking over the radio. Civilian 6 gave Officer A the address of XXXX S. Rhodes so he could convey that information over the radio. Civilian 6 asked Officer A if he was "alright," and Officer A responded by saying he was "okay." Civilian 6 walked in the gangway and observed Subject 1's body in the backyard. Civilian 6 stated he could not go into the backyard because there was a black steel gate that was locked that prevented him from doing so. At that time, Officer A asked Civilian 6 if he "got the gun" on videotape and Civilian 6 responded by asking where the gun was. Officer A pointed to a black gun that was next to the gate.

Officer A informed Civilian 6 that he was a witness to this event and asked for his identification. Civilian 6 stated he was placed in a squad car where he handed his phone over to "Officer C"<sup>3</sup> and was then taken to the district.  
(Atts. #41, 44)

The **Cell Phone Video Footage taken by Civilian 6** depicts the view from the sidewalk on the west side of Rhodes Avenue, looking through the locked iron gate in the gangway of XXXX S. Rhodes. The video depicts Subject 1 wearing blue jeans and a red top, lying face down on the ground, not moving. Subject 1 was positioned in the backyard of a building just past an open gate that separated the yard from a gangway. Subject 1's feet were facing the front of the building, and his head was facing the rear of the building. Throughout the video, police dispatch was heard in the background. Two males,

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<sup>2</sup> Statement of Civilian 6, Page 11, lines 1-2. Attachment #44

<sup>3</sup> Statement of Civilian 6, Page 22, Lines 1-2. Attachment #44



INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

presumed to be Civilian 6 and Officer A, can be heard attempting to read the address from the front of the building. The males can be heard announcing that the address is XXXX Rhodes Avenue. No further details were observed or heard relating to the police-involved shooting from the cell phone video footage. (Att. #33)

**In his statement to IPRA on 29 March 2014, Witness Officer B** stated that he and his partner, Officer A, were in a blue unmarked car wearing plainclothes patrolling the area of XXXX S. Rhodes working Beat XXXX due to gang conflict between the “BD’s and GD’s”<sup>4</sup> (rival street gangs known as the Black Disciples and Gangster Disciples) and narcotic sales. According to Officer B, he and Officer A were in their car heading southbound on Eberhart when they observed a possible hand-to-hand narcotics transaction in the middle of the block between 62<sup>nd</sup> and 63<sup>rd</sup> on Eberhart. Officer B stated that he saw Subject 1 hand over an unknown object to an unknown male subject who took the item and walked away. Officer B stated that Subject 1 was wearing a red jacket, blue jeans, and a skullcap. The other male subject was wearing a white jacket and beige pants.

According to Officer B, both Subject 1 and the male subject looked over at the officers and then separated. Officer B saw Subject 1 start walking southbound while the other male started walking northbound and got into a white car that was parked nearby. According to Officer B, since they were already driving southbound he and his partner decided to follow Subject 1 to conduct a narcotics investigation. Subject 1 quickened his pace and went up the stairs to a two flat building. At that time, Officer A, who was the driver, exited the vehicle and stated “police, hold on.”<sup>5</sup> Subject 1 opened the door and proceeded inside the building, locking the door behind him. Officer A told Officer B that Subject 1 had gone inside the first floor apartment. Officer A then came back down the stairs and Officer B walked northbound to the building next door, where he observed Subject 1 running across the alley.

Officer B stated that he could not enter the gangway because it was protected by a locked fence. Officer B relayed to Officer A that Subject 1 was running from the rear of the home, at which time both officers entered the squad car and proceeded eastbound where they observed Subject 1 on the eastside of Rhodes Avenue walking southbound. Officer A yelled out, “police stop”<sup>6</sup> and Subject 1 began to run again, now northbound on Rhodes while holding his right side. Officer A exited the vehicle and ran after Subject 1. Officer B exited the vehicle on the passenger side and reentered the car on the driver side, placed the car in reverse and drove toward the alley between Eberhart and Rhodes. As Officer B drove slowly through the alley going northbound, he heard Officer A on the radio. Officer B stopped the car, drew his weapon, exited the vehicle, and walked south; at which time he heard, “police, stop”<sup>7</sup> followed by five to eight gunshots.

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<sup>4</sup> Statement of Officer B, Page 8, Lines 4-5. Attachment #31

<sup>5</sup> Statement of Officer B, Page 13, Lines 30-31. Attachment #31

<sup>6</sup> Statement of Officer B, Page 18, Lines 26-27. Attachment #31

<sup>7</sup> Statement of Officer B, Page 22, Lines 27-28. Attachment #31

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

At the sound of the gunshots, Officer B took cover behind a tree and observed Subject 1 heading westbound in the gangway of XXXX S. Rhodes and yelled to Subject 1 “get on the ground, police get on the ground,” and “Let me see your hands!”<sup>8</sup> Subject 1 lowered to his knees and collapsed. Officer B stated he was waiting for additional units and was looking for a way to get into the yard where Subject 1 had collapsed but there was a fence on both sides which he could see through but did not attempt to climb, as it was approximately six feet.

Officer B could hear Officer A over the radio reporting that shots had been fired by the police. Officer B was able to enter into the yard where Subject 1 was laying face down with his hands underneath his body. Officer B used the nearby garage as cover, as he did not know if Subject 1 was still holding the gun. Assisting units arrived and secured the scene. Officer B stated he did not approach Subject 1 and assumed he was shot. Officer B saw Officer A later and asked if he was “okay,” and Officer A related that he was “okay.” Officer B stated he does not recall having any prior contact with Subject 1. (Atts. #31, 34)

**In statements to IPRA on 30 March 2014 and 18 June 2014, Officer A** provided an account of the events leading up to the shooting that was similar to that of his partner. Officer A stated that Subject 1 ran into a vacant lot located at XXXX S. Rhodes and jumped over a four to five foot chain link fence, into the rear of XXXX S. Rhodes. Officer A was ten feet away in the vacant lot of XXXX S. Rhodes where he lost sight of Subject 1. Officer A stated he did not jump over the fence after Subject 1 because, through his experience as a police officer, subjects are known to “double back.” Officer A went to the front of XXXX S. Rhodes Avenue, and then walked towards the gangway where he observed Subject 1 trying to climb over the black wrought iron gate towards Rhodes Avenue. Subject 1 glanced at Officer A then jumped back down into the gangway on the westside of the wrought iron gate, at which time he pointed a black gun with an extended magazine at Officer A.

Officer A instructed Subject 1 to drop his weapon while simultaneously drawing his own weapon. Officer A related that he and Subject 1 were approximately 15 to 20 feet away from each other when Subject 1 turned around and pointed his weapon at Officer A. Officer A stated he was in the gangway and had nowhere to retreat to, nor did he have any cover available. Officer A stated he was in fear for his life, and discharged his weapon five to seven times. Officer A stated he was focused on Subject 1’s weapon and stopped firing his weapon when Subject 1’s weapon was no longer pointed at him. Subject 1 continued to run towards the back of XXXX S. Rhodes Avenue, where he collapsed face down in the backyard. Officer A notified dispatch that shots were fired by the police and requested an ambulance.

Officer A stated that at the time he began to fire, his arms were extended and he had both his hands on his weapon facing Subject 1. Officer A stated he was not able to take cover and thought Subject 1 was going to kill him. Officer A related that he carries a Glock 21 that holds thirteen rounds in the magazine and one round in the chamber.

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<sup>8</sup> Statement of Officer B, Page 25, Lines 8-9. Attachment #31

## INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

Officer A stated he was aware of his surroundings and experienced tunnel vision<sup>9</sup> but did not experience auditory exclusion.<sup>10</sup> Officer A stated he encountered a male witness who asked him if he was okay. Officer A related to the witness that Subject 1 had “tried to kill” him. Officer A stated he later learned that someone had recorded the incident. Officer A noted that he did not direct the individual he spoke to, to “record the gun.” Officer A stated he did not observe the witness record the shooting because he was looking for his partner. Officer A stated he was “in shock” in the moments following the shooting. Officer A clarified that his definition of a gangway is any space between two buildings. Officer A further related that he was on the opposite side of the fence from Subject 1 when he fired his weapon. Officer A was not injured and was administered a drug and alcohol test after this incident. (Atts. #7, 10, 50, 51)

**In a third statement to IPRA on 14 June 2016, Officer A** provided the following answers in response to investigators’ follow-up questions about his recollection of the incident:

When Officer A first saw Subject 1 standing in the gangway, he was on the immediate east side of the wrought-iron gate, facing north with the gun at his right side in his right hand. Officer A drew his own gun and told Subject 1 to drop the weapon; Subject 1 did not comply. Subject 1 then climbed over the gate and landed on his feet facing south on the west side of the gate. Subject 1 then turned his upper body east (toward the gate and Officer A), raised the gun and pointed it at Officer A. Subject 1’s torso was at an angle, not completely squared up to Officer A. Officer A began to fire when Subject 1 raised the gun toward him; he believed he waited until Subject 1 had raised the gun all the way up before he began firing. At some point while Officer A was firing, Subject 1 turned away from Officer A and ran west down the gangway. Officer A believed (but was not certain) that one or more of his shots had struck Subject 1 because he had fired in close proximity, and because, after running through and exiting the gangway, Subject 1 subsequently collapsed in the backyard of the property.

Officer A did not recall hearing the gunshots that he himself had fired, nor the commands he had yelled at Subject 1. Officer A recalled seeing Subject 1 hold the gun in his right hand, but did not recall seeing him hold the gun in both hands. Officer A did not recall exactly which direction Subject 1 turned or how Subject 1 moved his body while Officer A was firing. Officer A did not recall seeing Subject 1 drop the gun, nor did he recall seeing anything in Subject 1’s left hand.

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<sup>9</sup> “Tunnel vision” refers to involuntary vision-related physiological responses to highly stressful situations, including (1) focus on visual stimuli to the exclusion of all other senses, (2) visual focus on a perceived threat to the near- or complete exclusion of all other surrounding events, and (3) loss of peripheral vision. FRANK A. COLAPRETE, INTERNAL INVESTIGATIONS: A PRACTITIONER’S APPROACH 35 (2007).

<sup>10</sup> “Auditory exclusion” refers to the brain’s temporary filtering of irrelevant external noise during periods of acute stress. CARRIE H. KENNEDY & ERIC A. ZILLMER, MILITARY PSYCHOLOGY: CLINICAL AND OPERATIONAL APPLICATIONS 78 (2d ed. 2012).

(Att. #63)

## ANALYSIS OF EVIDENCE

Officer A told IPRA that he fired at Subject 1 from the east end of the gangway of XXXX S. Rhodes. This is supported by (1) the recovery of fired cartridge casings from the ground at the east end of the gangway; and (2) witness Civilian 6's statement that he heard gunshots and then saw Officer A emerging from the east end of the gangway while talking on his radio. Officer A's account is further supported by the evidence technician's photos of the wrought-iron gate, which show defects at two locations on the east-facing surface of the gate (see Att. 29 at pp. 12-16). It is likely these defects were caused by bullets striking the gate, but this cannot be confirmed because no samples were taken at the time of the incident that could be used to test for the presence of gunshot residue or lead splash.<sup>11</sup>

Officer A also told IPRA that he began firing when Subject 1 pointed a gun at him while standing in the gangway on the immediate other (west) side of the locked wrought-iron gate. Officer A's account of Subject 1's location is supported by (1) the aforementioned defects on the east-facing surface of the gate; and (2) the recovery of a Glock 22 semi-automatic handgun from the ground on the immediate west side of the gate.

Officer A's claim that Subject 1 possessed a gun is supported by the recovery of the Glock 22 at the location at which Officer A reported seeing Subject 1 point the gun at him. Furthermore, this was no ordinary semi-automatic pistol: it was custom-equipped with a laser sight, and its standard magazine had been replaced by an extended magazine designed to significantly increase the number of rounds available to fire before the gun must be reloaded. The purpose of adding these non-standard components is to increase the lethality of the gun for offensive purposes. The laser sight and extended magazine increase the size and visibility of the weapon.

Furthermore, the unusual addition of a laser sight and extended magazine gave the Glock 22 a distinctive appearance:

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<sup>11</sup>When lead or lead-coated bullets impact a surface, some of the lead may be partially vaporized and come to rest on the much cooler adjacent surface. These lead particles are referred to as "lead splash," and may be detectable through use of a sodium rhodizonate test. The presence or absence of lead splash can assist in the determination of whether a defect was caused by a bullet. Lucien C. Haag, SHOOTING INCIDENT RECONSTRUCTION 43-45 (Academic Press 2006).

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010



Several photos obtained from social media websites immediately after the incident depict Subject 1 holding a black semi-automatic pistol equipped with both a laser sight and an extended magazine. The gun in the photos appears similar in appearance to the gun that was recovered from the gangway. The photos of Subject 1 holding a gun similar in appearance to that recovered at the scene is probative as to the fact that Subject 1 possessed the gun at the time of the incident.

Finally, forensic testing revealed that this particular Glock 22 had been used in two prior violent crimes, including one that occurred a mere six days prior to its recovery from Subject 1 at the time of his death.

According to Officer A, Subject 1 landed on the west side of the gate with his feet facing south, then turned his upper body east (toward the gate and Officer A), raised the gun and pointed it at Officer A. At some point while Officer A was firing, Subject 1 turned his back to Officer A and ran away down the gangway. Officer A did not recall exactly which direction Subject 1 turned or how Subject 1 moved his body while Officer A was firing. Officer A stated he stopped firing when he perceived that Subject 1's gun was no longer pointed at him.

A count of the ammunition remaining in Officer A's firearm after the incident indicates that he fired ten rounds.

The wounds to the front of the right shoulder (Wounds #7-8) are consistent with Subject 1 facing Officer A. Wounds #9, #6 and #2 are consistent with Subject 1 leaning forward and turning to his left (counterclockwise) with his right arm/hand raised. This movement would:

- present the right side of the chest below the armpit (Wound #9) toward Officer A. The fact that the bullet did not first strike the right arm indicates that the right arm was raised, leaving the right side below the armpit exposed. This is consistent with Officer A's statement that Subject 1 raised his right arm towards Officer A.

## INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

- allow for a bullet to enter at the top/back of the right shoulder and travel downward to exit on the inside of the right arm at the armpit (Wound #6; see photo 60). The absence of shoring at the exit wound or corresponding injuries to the torso indicates that the exit wound area was not in contact with the torso at the moment the bullet exited. This is further indication that the right arm was raised at the moment the bullet exited, which is consistent with Officer A's statement that Subject 1 raised his right arm and hand to point the gun at Officer A.
- allow for a bullet to travel from right to left along his left shoulder blade (Wound #2; see photo 57), which is consistent with Officer A's statement that Subject 1 turned away after pointing the gun at Officer A.

Wound #6 and Wound #2 appear to have traveled roughly parallel to the back, which does not suggest that Subject 1's back was turned toward Officer A when the those bullets struck.

The medical examiner determined that the wounds to the hands (Wound #10) were caused by a single bullet that entered the back of the left hand below and to the left of the knuckle at the base of the thumb (Photos 90-91), exited and traveled along the lower portion of the thumb of the left hand (Photo 93), re-entered the palm of the right hand (Photo 95), and re-exited the back of the right hand just below the knuckle at the base of the thumb (Photos 77-79).

The bullets that caused the wounds to the top of the head (Wound #1) and to the middle of the back (Wound #3, photo #58) traveled back-to-front and in an upward direction, and are consistent with Subject 1 running away from Officer with his torso tilted forward. The bullet that caused the wound to the back of the right thigh (Wound #4) traveled back-to-front and exited the front of the right thigh at a location lower than that of the entrance wound.

### **CONCLUSION AND FINDING:**

The R/I finds that, based on the totality of circumstances, Officer A's use of deadly force against Subject 1 was objectively reasonable, and therefore, **WITHIN POLICY** as defined by the CPD Use of Force Model; the Illinois State statute; and General Order 03-02-03, III, which states:

- A. "a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:
  1. to prevent death or great bodily harm to the sworn member or to another person, or:

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

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.”

As detailed above, the physical evidence clearly supports that, while fleeing from police, Subject 1 possessed a custom-modified, loaded Glock 22 semi-automatic pistol. Given that the evidence shows that Subject 1 was armed, the question remains, whether Subject 1 presented an imminent threat of harm to Officer A, particularly in light of the fact that the medical examiner’s report documents that Officer A was shot in the back three (3) times.

As outlined in the General Order, deadly force is permitted by an officer who reasonably believes it is necessary to prevent death or great bodily harm to the sworn member or to another person. Here, a reasonable officer with Officer A’s training and experience would perceive that Subject 1 presented an imminent threat of death or great bodily harm. Subject 1 was armed and had demonstrated that he was committed to defeating an arrest. Officer A reported that when he first came face to face with Subject 1, Subject 1 began to raise his weapon and point it in the direction of Officer A. It was at that moment that Officer A elected to use deadly force, and began to fire at Subject 1.

The medical examiner’s report supports that Subject 1 was shot four (4) times about the anterior (front) of his body and three (3) times about the lateral (side) of his body. The wound analysis is consistent with Subject 1 facing Officer A at the time Officer A began to fire at him. The medical examiner’s report also indicates that Subject 1 was shot three (3) times about the posterior (back) of his body, with gunshot wounds to his upper rear shoulder, rear of his thigh, and the top of his head.

Though Subject 1 was shot in the back three times, this does not necessarily negate the reasonableness of the force used by Officer A. The assessment of reasonableness must provide “allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving.” *Graham v. Connor*, 490 U.S. 386, 397 (1989). Conversely, the decision to stop acting, in this particular case, for Officer A to stop firing his weapon, also occurred within a split second. Within the moment that Subject 1 turned away from Officer A and perhaps no longer posed an immediate threat, Officer A was still in the process of firing upon him, in reaction to his initial assessment that Subject 1 was pointing a firearm at him and was a threat to his safety. In the time it would take Officer A to recognize that

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1068271 / U#14-010

the threat had ended, and to stop firing his weapon, it is reasonable that he would have continued to fire his last several rounds at Subject 1.<sup>12</sup>

The witness to this event, Civilian 6, reports hearing a succession of shots with no significant breaks or pauses in the cadence. Additionally, all of Officer A shell casings were found grouped within close proximity to each other. These factors suggest that Officer A's course of fire was rapid and immediate.

Pursuant to the U.S. Supreme Court, the particular issue of firing an appropriate number of shots to end a threat to (public) safety has been addressed, as the courts have held that "it stands to reason that, if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended . . . if lethal force is justified, officers are taught to keep shooting until the threat is over." *Plumhoff v. Rickard*, 134 S. Ct. 2012, 2016, (2014).

It is reasonable that, as Subject 1 was still in motion, an officer with similar training and experience could make the determination that Subject 1 was still a threat. Based on the totality of circumstances, Officer A's use of deadly force was objectively reasonable.

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<sup>12</sup> The 1984 study by Logan, Cowan, & Davis at the University of Vanderbilt identifies the "go process" and the "stop process" as it relates to a subject's ability to stop an action already triggered by an external stimulus. The study in reaction time, and the ability to stop a reaction, has been widely accepted through peer review and published in *The Quarterly Journal of Experimental Psychology*, 2003, 56A(3), 469-489. (Logan et al., 1984; Verbruggen & Logan, 2008;