

TO: Chief Administrator
Independent Police Review Authority

FROM: IPRA Investigator A

SUBJECT: Log #1071970
U# 14-034

REFERENCE: RD# XXXXXXXXX - Aggravated Assault

DATE/TIME: 12 October 2014, 0035 hours

LOCATION: XXXX S. King Drive
Beat XXX

INVOLVED OFFICER: Officer A; Chicago Police Officer; Star #XXXXXX; Unit XXX; H/M; Employee #XXXXXX; DOB: XX XXX XX; DOA: XX XXX XX; On-Duty; In Uniform; Assigned to Beat 1.

OFFICER'S WEAPON: SIG Sauer model P220; .45 caliber semi-automatic pistol; Serial# XXXXXXXX; City Registration# XXXXXXXX; FOID# XXXXXXXX; (4) live rounds recovered from firearm. Ammunition Federal .45 caliber and Federal .45 caliber +P (mixed ammunition); Fired five (5) times.

OFFICER'S INJURIES: None Reported

SUBJECT: Subject 1; B/M; DOB: XX XXX XX; Address: XXXX S. Lowe, Chicago, IL. IR #XXXXXXX.

SUBJECT'S INJURIES: Gunshot to the back of right thigh and back of right shoulder; Fatal.

SUBJECT'S WEAPON: Browning Arms model Hi-Power; 9mm semi-automatic pistol; Serial# 76C33193; twelve (12) rounds of mixed 9mm ammunition loaded in magazine; one (1) live round chambered in weapon; weapon capacity of fourteen rounds (13+1).

TIME OF IPRA NOTIFICATION: 0045 hours

TIME IPRA ARRIVED ON-SCENE: 0130 hours

INTRODUCTION:

On 12 October 2014, at approximately 0035 hours, members of the Chicago Police Department responded to the report of gunshots being fired in the area of Martin Luther King, Jr. Drive and West 53rd Street. Upon their arrival, the officers came into contact with Subject A, who fled on foot from the officers, while reportedly being in possession of a firearm. Police Officer 1 fired his service weapon at Subject 1, striking him multiple times and causing his death.

ALLEGATIONS:

It is alleged that on 12 October 2014, at approximately 0035 hours, at the location of XXXX S. King Drive, **Officer 1, #XXXX**:

1. violated department policy regarding the use of deadly force, General Order 03-02-03, III, in that he shot Subject 1 without justification, causing his death;
2. violated department policy, Special Order S07-01-04, in that he disturbed evidence by recovering a firearm from Subject 1 before it could be properly processed;
3. violated department policy in that he failed to qualify with his firearm, as required under Special Order S11-03-01;
4. violated department policy, Uniform and Property Order U04-02-01, in that he had mismatched ammunition loaded in his firearm.

APPLICABLE RULES

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

Chicago Police Department General Order, G04-02; Crime Scene Protection and Processing

Chicago Police Department Special Order, S07-01-04; Firearms Taken Into Custody or Turned In

Chicago Police Department Special Order, S11-03-01; Annual Prescribed Weapon Qualification Program

Chicago Police Department Uniform and Property Order, U04-02-01; Department Approved Weapons and Ammunition

SUMMARY OF INCIDENT

On 12 October 2014, at approximately 0030 hours, Subject 1 was leaving a party held in the area of W. 53rd Street and S. King Drive. Subject 1 was the rear passenger in a burgundy Chevy Malibu driven by Subject 2. Subject 3 was seated in the rear, on the driver's side. Subject 4 was seated in the front seat of the vehicle. As the car drove away from the gathering, multiple shots were fired at the vehicle by an unknown assailant(s).

Subject 2 drove around the block and parked his Chevy Malibu on the west side of S. King Drive, just south of W. 53rd Street. The occupants of his vehicle, including Subject 1, walked back towards the party on W. 53rd Street.

Moments later, multiple citizens in the area began to call 911 reporting "shots fired" and "a person with a gun" in the area of W. 53rd Street and S. King Drive.

At approximately 0035 hours, multiple officers from the 2nd District responded to the reports of shots fired in the area of W. 53rd Street and S. King Drive. The responding officers came into contact with Subject 1, who fled east on W. 53rd Street, and then south on S. King Drive. (See attached diagram, Exhibit A) As he fled south, Subject 1 ran into the path of Officer B and Officer C. When these two officers attempted to apprehend Subject 1, there was a brief physical struggle involving Subject 1 and Officer C after which Subject 1 fled north on S. King Drive.

As Subject 1 fled north, Beat 1, an unmarked department vehicle, arrived at the corner of W. 53rd Street and S. King Drive. Beat 1 was comprised of Officer A, # XXXXX, in the rear driver's side seat; Officer D, # XXXX, as the driver; and Officer E, #XXXXXX, as the front passenger.

Officer A exited the rear of the vehicle as Subject 1 was running east across S. King Drive, towards Washington Park. Officer A observed a firearm in Subject 1's right hand. Officer A fired his service weapon five (5) times at Subject 1. Subject 1 fell to the ground, at which time Officer A moved towards Subject 1 and observed that he was still holding a firearm in his right hand. Officer A recovered Subject 1's firearm, and tucked it into the rear of his own waistband.

Subject 1 was transported to University of Chicago Hospital, as he had suffered gunshot wounds to the back of his right leg and the back of his right shoulder. Subject 1 succumbed to his injuries and was pronounced deceased.

The shooting was captured by the in-car camera of Beat 2. The On Call Incident Commander responding to this event, Deputy Chief A, reviewed the footage and referred this incident to the Independent Police Review Authority for further investigation.

INVESTIGATION:

The **In-Car Video Footage from Beat 2** depicts Beat 2 (operated by Officers F, #XXXX, and G, #XXXXX) driving eastbound on 51st Street, and turning on Cottage Grove from 51st Street, through Washington Park. The video depicts Beat 2 then driving north on King Drive, from 55th Street, following the unmarked vehicle operated by Officers C, #XXXXX and B, #XXXX.

Officers C and B can be seen turning into the southbound lane of King Drive and parking diagonally, facing northwest, in the southbound lane of King Drive. Officers C and B exit their unmarked vehicle and approach Subject 2, who is standing near a CTA Bus Stop booth.

The video depicts Subject 1 running east from W. 53rd Street and then south on King Drive. Subject 1's left hand appears to be near his waistband while his right arm appears to be swinging freely. The video depicts Officer H and Sergeant A chasing Subject 1 in close pursuit.

Subject 1 continues to flee south, at which time he exits the camera frame for approximately four (4) seconds.

The video depicts Beat 1 arriving from the north, and stopping at the southwest corner of 53rd Street and S. King Drive.

The video next depicts Subject 1 running northbound on the west side of King Drive. Subject 1 runs alongside the passenger side of Beat 1, in a diagonal direction, toward the rear of the unmarked vehicle. The passenger side front door and both driver's side doors of the unmarked vehicle open.

The video depicts Subject 1 running behind Beat 1 and then beyond the vehicle, in a diagonal direction, eastbound, toward Washington Park. As the subject is running, his arms are moving back and forth freely and his elbows are high. The video does not clearly depict whether Subject 1's hands are open or closed, or whether he had anything in his hands. Officer A and Officer D exit from the driver's side of the unmarked vehicle. Officer A immediately runs eastbound behind the subject and discharges his firearm in the direction of the subject. Officer D and Officer E run in the same direction.

The video depicts that within seconds, several officers converge upon the subject as he lay on the grassy area on the east side of King Drive, at the perimeter of Washington Park. The driver of Beat 2 repositions the car diagonally across S. King Dr., in an apparent effort to block oncoming northbound traffic. As a result, the in-car camera is no longer directed toward the location where Subject 1 fell, and instead depicts onlookers who have come to the corner of S. King Drive and W. 53rd Street. (Att # 52, 53).

The **Tactical Response Report (TRR)**, completed by Officer A indicates that Subject 1 did not follow verbal direction, fled, posed an imminent threat of battery, and attempted to point 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 in uniform, investigating the report of a man with a gun. Subject 1 attempted to point a weapon in Officer A's direction. Officer A did not sustain any injuries. (Att. #9)

The **Crime Scene Processing Reports** indicate that Officer A's Sig Sauer P220 .45 firearm was collected as evidence. An examination of the firearm showed that one live round of Federal .45 caliber ammunition was in the chamber. Within its eight-round capacity magazine were two live rounds of Federal .45 caliber ammunition, and one round of Federal .45+P caliber ammunition.

Five expended shell casings were collected from the street at W. 53rd and S. King Drive. The casings, believed to be fired from Officer A's weapon, comprised of three Federal .45 caliber casings and two Federal .45+P caliber casings.

The reports also document the recovery of the weapon reported to have been in the possession of Subject 1: a Browning Arms 9mm semi-automatic pistol loaded with twelve live (unfired) rounds of mixed 9mm ammunition. The chamber of the pistol contained one Federal 9mm Luger cartridge, while the magazine contained eleven rounds of varying manufacture: three Federal 9mm Luger cartridges, three TulAmmo 9mm Luger cartridges, one GECO 9mm Luger cartridge, one Norinco 9mm Luger cartridge, one Sellier & Bellot 9mm Luger cartridge, one CBC 9mm Luger cartridge, and one Winchester 9mm Luger cartridge.

The Crime Scene Processing Reports further indicate that one additional live round of TulAmmo 9mm Luger ammunition was recovered from the rear seat cushion of Subject 2's Chevy Malibu.¹

Apparent blood evidence on the Browning Arms 9mm pistol was swabbed and collected for potential DNA comparison. (Atts. #106-109).

Evidence Technician Photographs document photos of the incident scene and the related evidence. The photographs depict multiple pictures of the Browning Arms 9mm semi-automatic handgun and ammunition allegedly possessed by Subject 1, and the live TulAmmo 9mm cartridge recovered from the rear passenger seat cushion of the Chevy Malibu. The photographs of the firearm depict grass, dirt, and other debris in the slide of the weapon.

The photographs also depict Officer A's weapon, the shell casings reported to have been expended from his weapon and the ammunition left remaining in his weapon. (Atts. #58, 128-132, 143, 149)

OEMC Zone Audio Transmissions: The OEMC and PCAD reports were collected and made part of this case file. An analysis of the Chicago Police Department Event Queries and Transmissions shows that the following relevant 911 calls and dispatch transmissions were made:

¹ In a statement to IPRA, Subject 2 would relate that Subject 1 "cocked" a pistol in his car prior to exiting.

- 12 October 2014, at 00:34:36, Beat 7 reported hearing approximately seven or eight gunshots, directly east of the 002nd District Station.
- 12 October 2014, at 00:35:37, the OEMC Dispatcher informed Units in the 002nd District that Beat 7 was reporting shots fired east of the station, in an area that was some distance east of XXXX S. Wentworth.
- 12 October 2014, at 00:36:19, the Dispatcher directed Beat 4 to respond to the “shots fired” incident and gave the location as XXX E. 53rd Street. The Dispatcher then advised that an anonymous caller reported hearing five shots and that three males wearing hooded sweatshirts had been seen walking eastbound.
- 12 October 2014, at 00:37:01, the Dispatcher advised Units in the 002nd District of a call of “shots fired” at XXX E. 53rd Street, announcing that there were now multiple calls coming in to 911 regarding shots fired in the area.
- 12 October 2014, at 00:38, the Dispatcher provided further information from the 911 callers, relating that two male blacks, wearing dark clothing, were just shooting and that one of the offenders fled eastbound and into the alley.
- 12 October 2014, at 00:41:16, Beat 3 reported locating a vehicle with its windows shot out in the area of XXXX S. King Drive. Subsequently, multiple officers begin to announce that they were in a foot pursuit with a black male running towards S. King Drive.
- 12 October 2014, at 00:41:38, Beat 8 reported “shots fired by the police.”
- 12 October 2014, at 00:43:32, Beat 1 reported that a weapon had been recovered.
- 12 October 2014, at 00:45:31, a 911 caller reported shots fired. The conversation between the caller and the Dispatcher was as follows:

Dispatcher: “Chicago Emergency [unintelligible] 911.”

Caller: “They need more back up out here Ma’am. They just had a big shooting out here. I’m at XXXX S. King Drive. It’s some police out here but it’s not enough.”

Dispatcher: “Okay. What. Are they fighting over there?”

Caller: “Yes. It’s like a riot now cause they done had some shooting. I don’t want to get back in the window because I’m scared. I know the police are out here but they ain’t got enough back up Ma’am.”

Dispatcher: “Alright. We’ll get a beat car out there to assist. Can I have a name for you?”

Caller: "Yes. My name is XXXXXXXXXX."

Dispatcher: "Alright XXXXXXXXXX. Do you see anyone injured or are you not sure?"

Caller: "I know they just. I just seent the fire. Somebody out there."

Dispatcher: "You heard like several shots fired?"

Caller: "Yeah and the police was out there and I don't know what happened after that. I just know they in the park right here, across the street from my home. But they need some more backup because these people out here going crazy."

Dispatcher: "Alright. We'll get a beat car over and I appreciate it. Thank you."

Caller: "You welcome. Bye bye." (Att. 23)

Illinois State Police (ISP) Forensic Science Laboratory Reports document the forensic examination of the recovered firearms-related evidence.

A firearms/toolmark specialist found that Officer A's Sig Sauer P220 was fully functional and in proper firing condition, and determined that the cartridge casings recovered at the scene of this event had been fired from Officer A's pistol. He also examined toolmarks present on the live cartridge found in the rear of Subject 2's vehicle, but the toolmarks were insufficiently detailed to determine whether they had been made by the Browning Hi-Power 9mm semi-automatic handgun allegedly possessed by Subject 1. The tool marks on the round that could not be excluded as have been made by the Browning Arms 9mm recovered from Subject 1. (Att. 65)

The firearms/toolmark specialist also examined the Browning Hi-Power 9mm pistol, and observed that its surface was worn and rusted. Although the Browning pistol was functional (capable of firing), the "firearm did not cycle properly during test firing. Each cartridge case only partially ejected then was manually removed." The specialist test-fired the weapon and "also chambered [several cartridges] and lead test marks were made." The resulting test casings were entered into the Integrated Ballistics Identification System (IBIS) database, which generated a match indicating that the Browning Hi-Power 9mm pistol was used in a September 25, 2013 shooting crime at 56th and Green in Chicago, Illinois.² (Att 165)

DNA analysis revealed that blood collected from the barrel of the Browning Hi-Power 9mm pistol contained DNA from one human male profile. Comparison to a known blood standard taken from Subject 1 shows that Subject 1 could not be excluded as the contributor of the human male DNA present on the barrel of the firearm. The reports indicate that 1 in 490 quintillion unrelated black males, 1 in 11 sextillion unrelated white males, and 1 in 210 sextillion Hispanic males could not be excluded from contributing to the DNA present on that weapon. (Atts. 67, 146)

² Chicago Police Department RD#XXXXXXXX

The Medical Examiner's Report and Photographs document the postmortem examination of Subject 1. The report indicates that Subject 1 was shot twice. Subject 1 was shot once in the back (posterior) of his right thigh, with the bullet lodging just behind Subject 1's right knee. Subject 1 was also shot in the back of his lower right shoulder, with an exit wound at his left eyelid. The reports indicates that this wound track severed Subject 1's right jugular vein.

The examination and subsequent toxicology showed the presence of alcohol in Subject 1's system, with an Ethanol presence of 118mg/dl.³ The examination also showed previous healed gunshot wounds on Subject 1's person.

The report indicates that there was no evidence of close-range firing. The cause of death was multiple gunshot wounds, with the manner being ruled a homicide. (Atts. # 64)

The **IPRA Preliminary Report** and the **CPD Initiation Report** relate the same information as reported in the Summary of Incident of this report. In his initiation report, Deputy Chief A notes that Officer A had failed to qualify with his weapon as required, and that his weapon was loaded with a mix of Federal .45 caliber ammunition and Federal .45+P caliber ammunition. (Atts. #4,14).

CIVILIAN WITNESS STATEMENTS

WITNESS, Subject 2

In his 12 October 2014 statement to IPRA, Subject 2 stated that, on the evening of this incident, he was at a party at a house on W. 53rd Street, near S. King Drive. Subject 2 left the party and entered his 2003 Chevy Malibu. Subject 2 stated that he was the driver, Subject 3 was the rear passenger, Subject 1 sat in the rear passenger seat on the driver's side, and "another guy that Subject 3 knew from the neighborhood" (Subject 4) sat in the front seat. Subject 2 stated that he and Subject 3 attended high school together, but that he did not know either Subject 1 or Subject 4 previously.

Subject 2 stated that as he drove away from W. 53rd Street, his car was fired upon by unknown person(s). Subject 2 believed that there were approximately eight (8) shots fired at his vehicle. Subject 2 stated that he continued to drive away from the area. Subject 2 stated that as he drove away, he heard a pistol being "cocked" behind him. Subject 2 did not see any of his passengers with a firearm, though he inferred that the passenger seated behind him, Subject 1, was in possession of one after hearing this sound.

Subject 2 stated that "he was instructed" to drive back to the area of W. 53rd Street and S. King Dr.⁴ Subject 2 stated that he parked his car on S. King Drive, near a CTA bus stop south of W. 53rd Street. Subject 2 stood next to his car for several minutes, while Subject 1, Subject 4, and Subject 3 walked back towards the party on W. 53rd Street.

Subject 2 stated that two police officers in an unmarked car pulled up near him, exited their vehicle, and began to approach him. Subject 2 began to inform the officers that his car had

³ 118 Milligrams of alcohol per deciliter of blood is equivalent to a 1.18 BAC

⁴ Subject 2 did not state which of his passengers provided this instruction to him.

been fired upon, at which time he observed Subject 1 running around the corner of W. 53rd St, northbound on S. King Drive. Subject 2 observed that other police officers were chasing Subject 1.

Subject 2 believed that Subject 1 was running back to his car. Subject 2 stated that as he ran, Subject 1 had his hands in his jacket pockets. Subject 2 stated that the two police officers who had been talking to him turned their attention to Subject 1, and began yelling for him to “stop” and “show (his) hands.”

Subject 2 stated that apparently upon seeing that he was running towards the two officers, Subject 1 reversed his direction and ran north, and then northeast, across S. King Dr. Subject 2 stated that Subject 1’s hands were no longer in his jacket pockets, they were near his body, close to his side. Subject 2 stated he did not see a firearm in Subject 1’s hand. Subject 2 stated that multiple officers arrived simultaneously. Subject 2 stated that he heard the officers consistently yelling for Subject 1 to “stop” and “show (his) hands.” Subject 2 stated that officers were chasing Subject 1 across the street, at which time he saw “flashes” and heard gunshots, and then observed Subject 1 fall on the sidewalk at the perimeter of Washington Park. Subject 2 stated he did not actually see any officer fire his weapon.

Subject 2 stated that the officers began to move towards Subject 1 and stand over him. Subject 2 did not see any officer bend down and move or take anything from the ground where Subject 1 had fallen, although he did overhear a white male officer state, “He had a gun.”

In his 9 September 2015 deposition, Subject 2 initially stated that when he saw Subject 1 running from the police, he could see both of his hands and could see that Subject 1 was not holding a firearm. Later in the same deposition, Subject 2 stated that when Subject 1 was running towards him, his arms were near the front of his torso, and he could not see his hands.

Subject 2 stated that a male police officer announced, “he has a gun,” as Subject 1 fled; Subject 2 subsequently saw a male police officer fall to the ground as Subject 1 ran towards the park. Subject 2 stated that Subject 1 had his back towards him and all of the police officers that were arriving at the intersection. Subject 2 stated that it was at this time in Subject 1’s flight that he could not see his hands.

Subject 2 stated that he heard one gunshot and saw Subject 1 fall to the ground. Subject 2 could not see Subject 1’s hands from the position he was standing, and was therefore unable to see if he did or did not have anything in his hands.

Subject 2 stated that he did not see Subject 1, or anyone else in his vehicle, with a firearm on the evening this incident occurred. Subject 2 stated that he had no knowledge that Subject 1 had a firearm prior to the shooting. Subject 2 explained that the responding detectives asked him why a live round of ammunition had been located in the rear of his vehicle. Subject 2 stated that he told the detectives he heard a metallic “click” from his backseat, after his car had been shot, while en route back to the party. Subject 2 explained that the detectives told him that a bullet was found in his car, and told him that Subject 1 was found to be in a possession of a weapon, leading him to state to the detectives that the sound he heard was a firearm “cocking.” In his deposition on this date, Subject 2 explained that he did hear a sound, but that he was not certain the sound

was from a firearm. Subject 2 explained that he originally provided the detectives with this information because, “a gun had to be involved in the story.”⁵

In his deposition, Subject 2 stated that “according to the banter” amongst his passengers in his car at the time they were fired upon, that Subject 1 and Subject 4 may have been “hit” or “grazed” with gunfire.⁶

WITNESS, Subject 4

In his 2 December 2015 statement to IPRA, Subject 4 stated that he was with his cousin, Subject 1, on the evening of 12 October 2014. Subject 4 stated that they were also with Subject 2 and Subject 3 at a party on W. 53rd Street near King Drive. Subject 4 stated that their group left the party, entered Subject 2’s vehicle, and began to drive away – at which time unknown person(s) fired at them.

Subject 4 explained that after their car was struck with gunfire, the group returned to the party to alert their associates that they had been shot at. Subject 4 stated that he was trying to convince a young woman inside the home to let them back in, as she had locked the gate and would not allow them inside, when he observed a person run past him, being chased by the police. Subject 4 explained that at the moment he saw this person running, he did not initially recognize that it was Subject 1.

Subject 4 explained that, as this was happening, he was standing on the north side of West 53rd Street and Subject 3 was standing on the south side of West 53rd Street.

Subject 4 stated that he observed a marked Chevy Tahoe traveling west on W. 53rd Street. Subject 4 stated that officers exited this vehicle and pursued Subject 1. Subject 4 identified the shooting officer as being in that group of officers.⁷

Subject 4 stated that as Subject 1 ran across King Drive, towards the park, one of the officers yelled, “Stop, Freeze!” Subject 4 stated that Subject 1 began to raise his hands in the air and began to change his posture consistent with someone who is preparing to come to a stop after running. Subject 4 stated that it was at this time that the officer began shooting. Subject 4 stated that Subject 1 had his back to the officer at the time the shots were fired. Subject 4 described the officer that fired as a Hispanic male, in plainclothes. Subject 4 stated that the officer who fired had run from W. 53rd Street and had been, “doing most of the chasing.”⁸

Subject 4 stated that Subject 1 did not have a firearm in his possession on the evening the shooting occurred. Subject 4 did not know Subject 1 to carry a firearm, stating that Subject 1, “got no felonies, no background or none of that...wasn’t even one of them type people.”⁹

⁵ Att. 120, Page 94, Line 14

⁶ Att 120, Page 22, Line 6-9

⁷ Att 162, Page 16, Line 3, “them was the ones that did the shooting.”

⁸ Att 162, Page 31, Line 3

⁹ Att 162, Page 37, Line 2

Subject 4 stated that Subject 1 was running from the police when he was shot and did not turn back towards them to offer any threat. Subject 4 stated that he has not previously seen any video footage of this shooting.

WITNESS, Subject 3

In his 30 September 2015 deposition and in his 17 January 2016 statement to IPRA, Subject 3 stated that he was with Subject 1 on the evening of 12 October 2014. Subject 3 and Subject 2 went to high school together. Subject 3 stated that they were also with Subject 2 and Subject 4 at a party on W. 53rd Street near King Drive. Subject 3 stated that he grew up in the same neighborhood as Subject 1 and Subject 4 and has known them all of his life. Subject 3 stated that their group left the party, entered Subject 2's vehicle, and began to drive away. Subject 3 explained that Subject 2 was the driver, Subject 4 was in the front seat, and Subject 1 was in the rear seat behind the driver. Subject 3 stated that as they prepared to drive away, he looked out of the rear window of their car and saw two or three males appear from either behind a tree or a building. Subject 3 stated that the subjects had firearms and began to fire at their car.

Subject 3 could not be specific about the description or number of the attackers, stating, "I got a bad seeing, I need glasses to really see."¹⁰

Subject 3 stated that they drove away from the area, drove around the block, and then returned to King Drive and West 53rd Street. Subject 3 stated that Subject 4 announced that one of the bullets may have "skipped him in the shoulder," and that Subject 1 had stated that he thought, "one of them had hit him in the back."¹¹

Subject 3 stated he did not see anyone in Subject 2's vehicle with a firearm, nor did he hear the sound of a firearm being manipulated or "racked."

Subject 3 stated that after they exited Subject 2's vehicle, they attempted to go back inside the building where the party was being held, but that persons there would not unlock the gate for them. Subject 3 stated that he was on the south side of W. 53rd Street, Subject 4 was on the north side of W. 53rd Street, and Subject 1 had gone into the north alley, east of King Drive.

Subject 3 stated that, moments later, Subject 1 ran from the alley, and east on 53rd Street, with an unmarked police Crown Victoria driving out of the alley behind him. Subject 3 stated that as he ran, Subject 1 had his hands in the pockets of the hooded sweatshirt he was wearing. Subject 3 stated that Subject 1 turned south on King Drive and was out of his sight for approximately five seconds. Subject 3 stated he heard someone yell, "he got a gun!"¹²

Subject 3 stated that, at that time, Subject 1 began to run east across King Drive, and was now back in his line of sight. Subject 3 stated that an unmarked police vehicle arrived in the intersection and an officer exited the car and began shooting at Subject 1. Subject 3 stated that Subject 1's hands were up in the air with his back to the officer, and that he had no weapon, or any other object, in his hands.

¹⁰ Att 176, Page 14, Line 14

¹¹ Att 176, Page 17, Lines 1-5

¹² Att 176, Page 25, Line 17

Subject 3 stated that he heard several gunshots, at which time Subject 1 fell to the ground near the entrance to the park. Subject 3 stated that multiple police officers began to converge around Subject 1.

Subject 3 stated that he has known Subject 1 since childhood and does not know Subject 1 to carry firearms or to be involved in any gang activity.

WITNESS, Subject 5

In her deposition in the Civil Suit XXXXXXXX on 1 June 2016, Subject 5 testified that she is the mother of Subject 1. Subject 5 was not an eye-witness to this event, and provided testimony relative to her response to the scene, and later to the hospital. (Att#204)

WITNESS, Subject 6

In her deposition in the Civil Suit XXXXXXXX on 2 August 2016, Subject 6 testified that she is a cousin of Subject 1. Subject 6 was not an eyewitness to this event, and provided testimony relating to a conversation she had with Subject 4 on the morning after the incident. Subject 6 stated that Subject 4 told her Subject 1 had a firearm on the night of the event. While Subject 4 was in the car with Subject 1, some individuals outside the car fired shots into the vehicle, and Subject 1 had attempted to return shots from inside the car. According to Subject 6, Subject 4 stated that Subject 1 then instructed the driver to turn around, which the driver did, and at that point, Subject 1's gun jammed and he was not able to fire his weapon. According to Subject 6, Subject 4 told her that the parties then heard police sirens, and they attempted to leave the area by "curbing" the car and fleeing on foot. Subject 6 further testified that Subject 4 said that, initially, he and Subject 1 were running together, but Subject 1 outran Subject 4, and Subject 4 was kneeling by a car when he heard the officers fire, but did not see Subject 1 get shot. According to Subject 6, Subject 4 told her that, after Subject 1 left the car, he saw Subject 1 throw his gun into the alley while they were running and that Subject 1 did not have a gun when he was shot by the police. Subject 6 also stated that Subject 3 had also told Subject 6's sister, XXXXX, that Subject 1 had a gun with him on the night of the incident, and that he had instructed the driver to turn the car around because he did not want to walk away from a situation where someone had fired a weapon at him.¹³ (Att. 228)

POLICE OFFICER STATEMENTS

OFFICER D

In his statement to IPRA on 12 October 2014, Witness Officer D, #XXXX stated that on the date of this incident he was working Beat 1 with Officer A and Officer E. Officer D stated that he was driving their unmarked police vehicle, with Officer E as the front passenger and Officer A in the back seat, on the driver's side. Officer E, Officer A and Officer D were all assigned to the same tactical team on the date of this incident.

¹³ Due to potential bias based on a family conflict, IPRA did not rely on this witness's statements in our analysis or findings.

The officers were responding to a call of shots fired in the area of W. 51st Street and King Drive, when they heard other officers announce via police radio that they were in pursuit of a subject on foot. Officer D stated that as they were driving towards the intersection, he saw Subject 1 struggling with Officer C and Officer B. Officer D stated he could clearly see that Subject 1 was holding a firearm in his right hand. Officer D stated that the officers were trying to take hold of Subject 1, but that Subject 1 was swinging his arms and turning his torso in an attempt to break free of the officers' attempts to control him.

Officer D stated that Subject 1 escaped the control of the other officers, and ran north along the passenger side of his car, and then behind his car towards Washington Park. Officer D stated that he exited his vehicle with his firearm drawn. Officer D saw that Subject 1 still had his firearm in his right hand, near his waist, and that his arm was moving in an "up and down motion."¹⁴

Officer D stated that he did not see Subject 1 pointing the weapon at anyone, but that he was running towards the park with the firearm in his hand. Officer D stated that he heard gunshots and saw Subject 1 fall at the entrance of the park. Officer D did not see Officer A fire his weapon. Officer D stated that he did not fire his weapon, as he did not feel it was safe from his position, while other officers would have been in his line of fire.

Officer D stated that as he approached Subject 1, he could see that Subject 1's firearm was on the ground, under his hand. Officer D stated the officers became aware of a large group of citizens approaching from the north side of W.53rd Street. At that time, Officer A retrieved Subject 1's firearm and kept in on his person. (Att. 36)

OFFICER E

In his statement to IPRA on 8 November 2014, Witness Officer E, #XXXXXX stated that on the date of this incident he was working Beat 1 with Officer A and Officer D. Officer E stated that he was the front passenger in their unmarked police vehicle, with Officer D as the driver and Officer A in the back seat, on the driver's side.

Officer E stated that Officer A is his regular partner, and that Officer D is another member of their tactical team. Officer E described Officer A as a co-worker and a friend. He also stated that they have socialized together outside of work.

Officer E stated they were responding to a call of shots fired in the area of W. 51st Street and King Drive, when they heard other officers announce via police radio that they were in pursuit of a subject on foot. Officer E stated that as they were driving south on King Drive, he saw Subject 1 struggling with Officer C and Officer B. Officer E stated he could see that Subject 1 was holding a firearm in his right hand. Officer E stated that he announced words to the effect of, "He's got a gun" to Officers A and D, who were in the car with him. Officer E stated that the officers were trying to restrain Subject 1, but that Subject 1 was swinging his arms and his firearm, in an attempt to evade the officers. Officer E stated that during the struggle, it appeared that Subject 1 pointed his weapon at the officers.

¹⁴ Statement of Officer D, Att # 36, Page 17, Line 16

Officer E stated that Subject 1 broke free from the control of the other officers, and ran north along the passenger side of his car. Officer E saw that Subject 1 still had his firearm in his control. Officer E stated he feared Subject 1 might fire the weapon at him as he ran past and that he “ducked down” as Subject 1 fled past him.

Officer E stated he then began to exit his vehicle, at which time he heard multiple gunshots. Officer E looked eastward and saw Officer A with his firearm drawn and pointing in the direction of Washington Park. Officer E observed Subject 1 running and then collapsing on the grass at the entrance to the park.

Officer E explained that after Subject 1 ran past him, he was not at an angle that allowed him to see his hands – and he therefore did not see Subject 1 holding the firearm when he fell forward. Officer E stated that Officer A moved towards Subject 1 while he was on the ground. Officer E did not see Officer A recover Subject 1’s weapon, although he did hear Officer A announce that he had recovered it. Officer A had stated this to Officer E as Officer E was moving to handcuff Subject 1.

Officer E stated that he was not in a position to see what Subject 1 was doing as he ran behind their car, and across King Drive; Officer E did not know if Subject 1 did, or did not, point his weapon in the direction of Officer A. Officer E did state that throughout the course of Subject 1’s interaction with the police, he “had a semiautomatic handgun in his hand and he was waving it around.”¹⁵

OFFICER C

In his statement to IPRA on 12 October 2014, Witness Officer C, #XXXXXX stated that on the date and time of this incident he was working Beat 3 with Officer B. The officers were responding to the report of shots fired in the area of W. 53rd Street and King Drive, when they observed Subject 2 standing on the west side of King Drive. The officers elected to conduct a field interview with Subject 2; immediately upon their contact with him, Subject 2 pointed towards his Chevy Malibu and informed the officers that his car had been struck by gunfire.

Officer C stated that he began to collect Subject 2’s identifying information for a contact card, while Officer B inspected Subject 2’s vehicle. Officer C stated he then heard officers on the radio announce that they were involved in a foot pursuit with a black male subject, eastbound on W.53rd Street towards King Drive.

Officer C stated he began to move away from Subject 2, towards W. 53rd Street based upon the radio transmissions he had received. At that time, Officer C saw Subject 1 turn south on King Drive – now running directly towards Officer C and Officer B. Officer C stated that he could see that Subject 1 had a firearm in his hand, although he could not recall which hand he had it in.

¹⁵ Statement of Officer E, Att. 62, Page 28, Line 4,

Officer C stated he pointed his firearm at Subject 1 and stated, “get on the ground, get on the ground, drop the gun, drop the gun!”¹⁶ Officer C stated that Subject 1 replied, “Okay, okay officer I am gonna give it up.”¹⁷

Officer C stated that Subject 1 was still running towards him, with his firearm tucked towards the center of his chest. Officer C holstered his firearm and grabbed Subject 1 by the back of his head, in order to push him down to the ground. Officer C stated that Subject 1 resisted against the takedown effort. Officer C stated that Subject 1 collided with him, causing Officer C to fall to the ground and allowing Subject 1 to break free of his hold and turn to run northbound.

Officer C stated he heard Officer B yell out, “gun, gun!” followed by the sound of four to five gunshots. Officer C looked up and saw Subject 1 collapse on the east side of King Drive. Officer C then got to his feet and ran towards Subject 1. Officer C stated he was yelling for his fellow officers to secure Subject 1’s weapon, at which time Officer A related that he had done so. Officer C assisted in handcuffing Subject 1 and then checked his pockets for a wallet or identification, of which he found neither. Officer C called for EMS to respond to the scene to care for Subject 1.

OFFICER B

In his statement to IPRA on 12 October 2014, and in his deposition in Civil Suit XXXXXXXX on 3 March 2016, Witness Officer B, #XXXXXX stated that, on the date and time of this incident, he was working Beat 3 with Officer C. The officers were responding to the report of shots fired in the area of W. 53rd Street and King Drive, when they observed Subject 2 standing on the west side of King Drive. According to Officer B, because they encountered Subject 2 in the area of the shots fired call and because Subject 2 had his hands in the pockets of his hooded sweatshirt, he and his partner drew their firearms as a precaution as they exited their squad car to make contact with Subject 2.

The officers conducted a field interview and a protective pat-down of Subject 2. During their contact, Subject 2 pointed towards his Chevy Malibu and informed the officers that his car had been struck by gunfire.

Officer B stated that Officer C began to collect Subject 2’s identifying information for a contact card, while Officer B inspected Subject 2’s vehicle. Officer B stated that he heard officers on the radio announce that they were involved in a foot pursuit with a black male subject traveling eastbound on W.53rd Street towards King Drive.

Officer B stated that he turned his attention away from the vehicle and towards the corner, at which time he observed Subject 1 running towards him. Officer B stated that, at that time, he could not see if Subject 1 was armed with a firearm or not. Office B stated that his firearm was drawn, as was Officer C’s.

Officer B observed that Subject 1’s hands were concealed and drawn towards his chest, as he was leaning forward. Officer B stated that when the officers attempted to take hold of

¹⁶ Statement of Officer C Att. 44, Page 13, Line 5

¹⁷ Statement of Officer C Att. 44, Page 13, Line 9

Subject 1, he resisted by moving his arms. Officer B stated that Subject 1 broke free of Officer C's attempt at a takedown, and fled in a northeast direction across King Drive.

As Officer B chased Subject 1, he observed that Subject 1 had a firearm in his right hand, out to his side, near waist level. Officer B stated that Subject 1 did not turn back towards him with the firearm, but from his position and the angle at which Subject 1 was holding the weapon, he could clearly see that it was a firearm. Officer B stated that he called out, "gun!" Officer B stated that he then heard multiple gunshots, although he was not immediately certain who had fired. Officer B believed Subject 1 had been struck by gunfire, but observed him to continue running while holding his firearm in his hand.

Officer B stated that Subject 1 then fell forward in the grass of the park, still holding the weapon in his hand. Officer B believed that Officer A recovered and secured Subject 1's firearm, as a hostile crowd began to approach the scene from the west side of King Drive. Officer B turned his attention towards protecting the scene from the persons that were gathering in the area. (Att. 49, 205)

OFFICER H

In her statement to IPRA on 12 October 2014, Witness Officer H, #XXXX stated that, on the date and time of this incident she was working Beat 4 with Officer I. Officer H stated that they were assigned by OEMC to respond to the area of W. 53rd Street and King Drive following the report of gunshots in the area. As the officers turned their marked patrol car west onto W. 53rd Street, Officer H observed a group of approximately eight black males standing on the sidewalk. The officers began to drive towards the crowd, when a black male, now known to be Subject 1, ran out of the alley on the west side of 5301 S. King Drive, towards their patrol car.

Officer H stated that she did not see anything in Subject 1's hands at that time. Officer H stated that she exited her vehicle and pursued Subject 1 on foot, noting that Subject 1 was 15-25 yards ahead of her. As Subject 1 turned south on King Drive, Officer H drew her firearm and slowly rounded the corner of the building – at which time she observed Subject 1 running back north directly towards her. Officer H stated she could see other officers (Officer C and Officer B) behind Subject 1, and could hear them giving verbal commands to Subject 1 to stop running. Officer H raised her firearm and pointed it at Subject 1, and gave verbal commands to the effect of, "stop, police!"

Officer H stated that she could see that Subject 1 had an object in his right hand, which she assumed to be a firearm given the nature of the call of shots fired and Subject 1's flight from the officers. Officer H was able to hear at least one of the other officers on the scene yell, "gun!" although she did not know which officer it had been. Subject 1 ran past Officer H and ran east across S. King Drive, with Officer H and additional officers pursuing him. Officer H stated that the other pursuing officers came in between her and Subject 1, and her view of him became obstructed. Officer H stated that she heard several gunshots and observed Subject 1 fall forward near the entrance to Washington Park.

Officer H approached Subject 1 along with the other officers; Officer H radioed that shots had been fired by the police and that an ambulance was needed for the offender who had been struck. Officer H recalled seeing an officer recover a firearm from Subject 1, although she did

not know who the officer was nor could she describe him. Officer H stated that she then turned her attention to a large crowd of 30 to 40 people that were beginning to approach the scene.

OFFICER I

In her statement to IPRA on 12 October 2014, Witness Officer I, #XXXXXX stated that, on the date and time of this incident she was working Beat 4 with Officer H. Officer I stated that they were assigned by OEMC to respond to the area of W. 53rd Street and King Drive following the report of gunshots in the area. Officer I recalled that there was an OEMC dispatch indicating that the possible suspect in the “shots fired” alert was a black male wearing all dark clothing.¹⁸ As the officers turned their marked patrol car west onto W. 53rd Street, they observed a group of approximately eight black males standing on the sidewalk. The officers began to drive towards the crowd, when a black male, now known to be Subject 1, ran out of the alley on the west side of 5301 S. King Drive, towards their patrol car. Officer I stated that Subject 1 was wearing all dark clothing, and running from the area where the shots fired had been reported, leading her to believe that Subject 1 was the possible suspect.

Officer I could not see Subject 1’s hands, but noted that he was running with his hands at his side, inconsistent with the way a person would typically run, with their arms swinging back and forth. Officer I alerted other officers in the area, via police radio, that there was a black male in all dark clothing “headed your way, look out.”¹⁹ Officer I exited her vehicle, chasing behind Officer H, who was in pursuit of Subject 1. Officer I explained that, as she neared the corner of W. 53rd Street and S. King Drive, she heard gunshots and stopped, not wanting to move further and enter into any potential crossfire.

Officer I stated that she saw Subject 1 fall forward onto the ground. Officer I walked over to where Subject 1 fell, as she saw Officer H standing nearby and wanted to check on her wellbeing. Officer I did not see a weapon on the ground or near Subject 1, although she later learned that a firearm had been recovered from him. Officer I recalled that shortly after the shooting, an irate crowd began to gather on the opposite of S. King Drive.

OFFICER J

In his statement to IPRA on 12 October 2014 and in his deposition in Civil Suit XXXXXXXX on 23 November 2015, Witness Officer J, #XXXXXX stated that, on the date and time of this incident he was working as part of a Violence Reduction Initiative team with Officer K. Officer J was in the area of 53rd Street and Prairie Avenue, when he heard the sound of gunshots. Officer J stated that, moments later, there was an OEMC dispatch regarding the report of gunshots in the area of W. 53rd Street and S. King Drive. Officer J and Officer K began to drive towards the area, traveling north on S. King Drive. Officer J stated that, while en route, he heard officers announce via police radio that they were in a foot pursuit with a subject who was running east on W. 53rd Street towards S. King Drive. Officer J stated that after crossing W. 54th Street, he saw the subject now known to be Subject 1 running from several police officers. Officer J elected to drive his unmarked police Tahoe over the curb into Washington Park, in an

¹⁸ Att. 23

¹⁹ Att. 40, Page 11, Line 18

effort to intercept Subject 1 as he fled. Officer J stated that as he drove into the park, closer to Subject 1, he saw that Subject 1 had a firearm in his hand.

Officer J stated that he observed officers pull up to the intersection in a vehicle as Subject 1 was running towards the park. Officer J stated that he could clearly see that Subject 1 was still holding a firearm as he was running, with both hands swinging back and forth as he ran. Officer J stated, "That gun was swinging all over the place, I am sure there was a danger to not only other officers but to the community as well...as far as I know I was drivin' up there, he coulda been pointing it at me."²⁰

Officer J recalled being within 40 to 50 feet from Subject 1, and hearing officers yell, "drop the gun, drop the gun." Officer J heard three to four gunshots and then saw Subject 1 fall forward into the grass at the entrance to the park. Officer J stated that he parked his vehicle, exited, and ran towards where Subject 1 had fallen. Officer J recalled that several officers were stating words to the effect of, "he has a gun, get the gun." Officer J stated that an officer recovered the weapon from Subject 1, although he did specifically see the weapon being recovered.

Officer J stated that a large crowd began to gather in the area, and he then turned his attention towards them.

OFFICER K

In his statement to IPRA on 12 October 2014, Witness Officer K, #XXXXXX stated that on the date and time of this incident he was working as part of a Violence Reduction Initiative team with Officer J, assigned to Beat 5. Officer K stated that he and Officer J were responding the report of gunshots in the area of W. 53rd Street and S. King Drive, when they observed Subject 1 running east on W. 53rd Street, being pursued by other police officers. Officer K explained that Officer J drove their unmarked police Tahoe over the curb, into the grassy area of the park, towards where Subject 1 was running.

Officer K stated that he could not see anything in Subject 1's hands as he fled. Officer K heard several gunshots and saw Subject 1 fall forward. Officer K stated that he exited his vehicle and ran towards where Subject 1 had fallen. Officer K heard officers state words to the effect of, "give up the gun, recover his gun;" Officer K later learned that a weapon was recovered, although he did not see it being recovered.

Officer K stated that his attention turned towards the crowd that was beginning to gather in the area. (Att. 23)

SERGEANT A

In his statement to IPRA on 12 October 2014 and in his deposition in Civil Suit XXXXXXXX on 24 November 2015, Witness Sergeant A, #XXXX stated that, on the date and time of this incident he was working as part of a Violence Reduction Initiative team, as Beat 6. Sergeant A stated that he was responding to the call of shots fired in area of W. 53rd Street and

²⁰ Att. J, Page 16, Line 19

S. King Drive, traveling north from the area of W. 54th Street. Sergeant A stated that he was driving through the alley west of S. King Drive, when he observed a black male in a dark hooded sweatshirt, now known to be Subject 1, walking south into the alley, moving towards his police vehicle. Sergeant A explained that Subject 1 looked up, saw his police vehicle, and immediately turned around and attempted to walk west on W. 53rd Street. Sergeant A began to maneuver his vehicle so as to block Subject 1 from traveling west, at which point Subject 1 turned again and fled east on W. 53rd Street.

Sergeant A exited his vehicle and pursued Subject 1 on foot, announcing via police radio that he was in pursuit of a black male,²¹ wearing dark clothes, running east on W. 53rd Street. Sergeant A related that a female police officer (Officer H) was ahead of him, also pursuing Subject 1. Sergeant A stated that Subject 1 ran south on S. King Drive and into the path of Officer C and Officer B. Sergeant A stated that Subject 1 apparently broke free of their attempt to apprehend him, and turned back north running directly towards Officer H.

At this point, Sergeant A was able to see that Subject 1 had a black in color semiautomatic pistol in his right hand. Sergeant A stated that he lost his footing briefly, and fell at the corner of W. 53rd Street and S. King Drive. Sergeant A was aware that multiple officers were converging upon Subject 1, as he now attempted to run across S. King Drive towards Washington Park.

Sergeant A got back to his feet and could see that Subject 1 still had his firearm in his hand as he ran, with the gun “waving²²” back and forth as he ran. Sergeant A heard commands being issued by other officers for Subject 1 to “stop” and “drop the gun,” followed by the sound of gunshots. Sergeant A observed Subject 1 fall forward at the edge of the park.

Sergeant A radioed that shots had been fired by the police. Sergeant A turned his attention to the crowd that was beginning to gather, and never approached Subject 1 after he fell to the ground. Sergeant A did not witness the firearm being recovered from Subject 1.

OFFICER G

In her statement to IPRA on 16 October 2014 and in her deposition in Civil Suit XXXXXXXX on 14 March 2016, Witness Officer G, #XXXXXX stated that on the date and time of this incident she was working Beat 2 with Officer F.²³ Officer G stated that she and Officer F were notified by Sergeant B, via police radio, that he had heard gunshots coming from the area of W. 53rd and S. King Drive. The officers were instructed to respond to the area to investigate. Officer G drove from the area of W. 55th Street and Cottage Grove Avenue, ultimately turning north onto S. King Drive towards W. 53rd Street.

Officer G stated that, while en route, OEMC began to dispatch additional reports of shots fired in the area of W. 53rd Street and S. King Drive. As the officers drove closer to the intersection, Officer G observed Officer C and Officer B making contact with Subject 2. Officer

²¹ PCAD records confirm that multiple officers announced a foot pursuit with a black male running towards S. King Drive. Att. 23

²² Att. 46, Page 17, Line 28

²³ The officers were in a marked Chevy Tahoe, equipped with the in-car camera that captured the shooting.

G recalled that one of the two officers announced via police radio that Subject 2's vehicle had been struck by gunfire. Officer G had her windows down, and was able to hear Subject 2 tell Officer C and Officer B that the Chevy Malibu was his vehicle.

Officer G stated that as she began to stop her vehicle, Subject 1 suddenly appeared from around the corner of W. 53rd Street and began to run south on the sidewalk. Officer G stated that Subject 1 was running directly towards Officer C and Officer B, and that he appeared to be surprised that the officers were there. Officer G stated that she could see that Subject 1's hands were near his waist as he ran. Officer G stated that Officer C and Officer B turned their attention to Subject 1, attempting to take him into custody as he approached them. Officer G stated that the officers appeared to engage in a brief struggle with Subject 1, at which time Subject 1 broke free and ran across S. King Drive.

Officer G explained that she parked and exited her vehicle. Officer G drew her weapon from her holster. Officer G explained that, based upon the call of shots fired, and the fact that Subject 1 had his hands concealed near his waistband, she believed that he may have possessed a firearm. Officer G re-entered her vehicle after seeing Subject 1 flee from Officer C and Officer B. Officer G stated that she began to turn her vehicle to the northeast, intending to drive forward to pursue Subject 1 as he fled. Officer G heard two shots, drawing her attention to Subject 1, at which time she heard additional shots and observed Subject 1 fall forward in the park.

Officer G did not know if there were any officers in the park, but was aware that there was a large contingent of officers in the street and in the area immediately around Subject 1. Officer G recalled that no other officer relayed over the radio for additional responding units to slow down or stop, as the situation had ended. Officer G and Officer F proceeded directly to W. 51st Street and S. King Drive, in order to establish a perimeter and protect the scene. Officer G stated that she never approached Subject 1 after he had fallen. (Att. 56, 57, 206)

OFFICER F

In her statement to IPRA on 16 October 2014 and in her deposition in Civil Suit XXXXXXXX on 1 March 2016, Witness Officer F, #XXXX stated that, on the date and time of this incident she was working Beat 2 with Officer G²⁴ Officer F stated that she and Officer G were notified by Sergeant B, via police radio, that he had heard gunshots coming from the area of W. 53rd and S. King Drive. The officers were instructed to respond to the area to investigate. The officers drove from the area of W. 55th Street and Cottage Grove Avenue, ultimately turning north onto S. King Drive towards W. 53rd Street.

Officer F stated that, while en route, OEMC broadcast additional reports of shots fired in the area of W. 53rd Street and S. King Drive. Officer F recalled that one of the OEMC calls indicated that the subjects possibly involved in the shots fired were on the side of a building at W. 53rd Street and S. King Drive.

As the officers drove closer to the intersection, Officer F observed Officer C and Officer B making contact with Subject 2. Officer F recalled that Officer C called out to them, informing them that Subject 2's vehicle had been struck by gunfire.

²⁴ The officers were in a marked Chevy Tahoe, equipped with the in-car camera that captured the shooting.

Officer F stated that simultaneously, Subject 1 ran around the corner, traveling south on the sidewalk of S. King Drive, and ran directly into Officer C and Officer B. Officer F stated that Subject 1 had his hands near his waistband as he ran. Officer F explained that Subject 1 stopped running forward, took several small steps backward, and then spun his body and fled north and then east across S. King Drive. Officer F explained that her focus was divided between Subject 2 and Subject 1, preventing her from observing the precise interaction between Subject 1 and Officers C and B. Officer F stated that she believed there was some contact between Subject 1 and the officers, though she could not articulate specifically what occurred.

Officer F stated that as Subject 1 fled across the street, she could not see his hands. Officer F stated that an unmarked vehicle arrived in the intersection and that an officer in plain clothes exited from the passenger side of the vehicle. Officer F stated that she observed this officer pursue Subject 1 for a moment, and then slow down and point his weapon at Subject 1. Officer F stated that this officer fired four to five shots at Subject 1, at which time Subject 1 fell forward into the park.

Officer F stated that she did not see Subject 1 with a firearm, but that based upon the call of shots fired in the area, Subject 1's flight from the responding officers, and Subject 1's furtive movements about his waist as he ran – she “highly believe(d) that he possibly had a gun.”²⁵ Officer F stated that from her distance and position, she did not feel that Subject 1 posed a threat to her safety. (Att. 54, 55, 214)

DETECTIVE A

In his deposition in Civil Suit XXXXXXXX on 17 February 2016, Detective A, #XXXXX, stated that he and his partner, Detective B, arrived on the scene after the incident. Detective A and Detective B interviewed the same officers that were later interviewed by IPRA and deposed in the civil suit. Detective A's deposition testimony in the civil suit as to the facts and circumstances in this event are not inconsistent with the accounts provided by the other witnesses. (Att. 212)

DETECTIVE B

In his deposition in Civil Suit XXXXXXXX on 14 March 2016, Detective B, #XXXXX, stated that he and his partner, Detective A, arrived on the scene after the incident. Detective A and Detective B interviewed the same officers that were later interviewed by IPRA and deposed in the civil suit. Detective B's testimony in the civil suit as to the facts and circumstances in this event are not inconsistent with the accounts provided by the other witnesses. Detective B's recollection of this event was less than clear, and he had to rely on his report to refresh his recollection for some of his testimony. (Att. 211)

OFFICER K

In her deposition in the Civil Suit XXXXXXXX on 27 July 2016, Officer K, #XXXX stated that she and her partner, Officer L, responded to the scene after the shooting had occurred.

²⁵ Statement of Officer F, Att. 55, Page 28, Line 27

Officer K was responsible for securing the perimeter of the scene. Officer K did not have any direct knowledge of the facts and circumstances that led to the shooting. (Att. 210)

OFFICER L

In his deposition in the Civil Suit XXXXXXXX on 7 April 2016, Officer L, #XXXXX, stated that he and his partner, Officer K, responded to the scene after the shooting had occurred. Officer L was responsible for securing the perimeter of the scene. Officer L did not have any direct knowledge of the facts and circumstances that led to the shooting. (Att. 209)

DEPUTY CHIEF A

In his deposition in the Civil Suit XXXXXXXX on 5 May 2016, Deputy Chief A, (Retired) stated that he arrived on the incident scene after the shooting had occurred. Deputy Chief A provided testimony as to standard procedure followed by the Chicago Police Department following a shooting. Deputy Chief A provided testimony as to what he was told by the involved and witness officers following this event. (Att. 207)

OFFICER A

In his statement to IPRA on 6 April 2016 and in his deposition in Civil Suit XXXXXXXX on 19 November 2015, Officer A, #XXXXX stated that, on the date of this incident, he was working Beat 1 with Officer E and Officer D. Officer E was the front passenger in their unmarked police vehicle, with Officer D as the driver and Officer A in the back seat, on the driver's side.

Officer A stated that Officer E is his regular partner, and that Officer D is another member of their tactical team.

Officer A recalled that he and his partners were in the police station, when they began to hear reports of shots being fired in the area of W. 53rd Street and S. King Drive. Officer A stated that the calls indicated that several black males, armed with black handguns, and wearing dark hooded sweatshirts, were shooting in that area.

Officer A stated that he and his partners responded to the call of shots fired in the area of W. 51st Street and King Drive, and were en route when they heard Officer C and Officer B announce via police radio that they were making contact with a subject (Subject 2) whose car had been struck by gunfire. According to Officer A, moments later, he heard Sergeant A announce via radio that he was in pursuit of a black male wearing a dark colored hooded sweatshirt.

Officer A stated that as their vehicle arrived in the area, he saw Subject 1 running east on W. 53rd Street, and then run south on S. King Drive. Officer A saw Subject 1 run directly into the path of Officer C and Officer B, who attempted to detain Subject 1. Officer A observed the officers engage in a struggle with Subject 1, who spun away from the officers, hunched over, and brought his hands towards the front of his waist. Officer A stated that Subject 1 began to flail his upper body and shoulders back and forth as he resisted Officer C and Officer B's attempts to detain him.

Officer A stated that he observed Officer C fall to the ground, at which time Subject 1 rose up and broke free of Officer B's grasp. At that moment, Officer A was able to see that Subject 1 had a firearm in his right hand. Officer A stated that Officer E simultaneously called out, "gun, gun!"²⁶

Officer A stated that, as their vehicle came to a stop on S. King Drive, Subject 1 ran along the passenger side, and then behind, their vehicle. Officer A stated that he drew his firearm as he exited the rear driver side door, still maintaining his sight of Subject 1, and observing that Subject 1 was still holding his handgun in his right hand. Officer A stated that as he exited his vehicle, he was within 5 to 10 feet of Subject 1.

Officer A stated that he could hear other officers giving verbal commands to the effect of, "stop" and "drop the gun" as Subject 1 was running towards the park. Officer A also yelled out for Subject 1 to "drop the gun."²⁷ Officer A stated that he could see the lights from two patrol vehicles that were driving through Washington Park, converging upon Subject 1's flight path.

Officer A stated that he could see the firearm in Subject 1's hand as he ran. Officer A stated that he began to see the side profile of the weapon; Officer A stated, "At that point in time, I didn't know if he was going to turn the gun in my direction, I had no cover. Or the direction of other officers that were going to converge in his path. So, I discharged my firearm."²⁸

Officer A explained that he did not see Subject 1 turn towards him, although he had seen the firearm change positions, leading Officer A to believe that Subject 1 was, or was intending to, point the weapon back in his direction or at other officers in the area. Officer A stated, "The gun changed positions and then, I wasn't going to wait for him to discharge at either myself or any other officer when the gun changed positions, I didn't know what to expect and I thought he was going to discharge his firearm."

Officer A recalled that he fired his weapon five or six times, stating that he stopped firing when Subject 1 fell to the ground. Officer A, along with other officers, began to converge upon Subject 1. Officer A recalled that an officer, he could not be sure which, stated words to the effect of, "grab the gun, secure the gun." Officer A observed that Subject 1's hand was on the ground, with his palm facing up, and the firearm still resting on his fingertips. Officer A stated that, at that moment, he was unsure if Subject 1 had been struck by gunfire. Officer A observed that Subject 1 appeared to be breathing, as his back was still moving up and down. Officer A stated that he considered Subject 1 to still be a potential threat, and he elected to retrieve and secure Subject 1's firearm under exigent circumstances.

Officer A placed Subject 1's firearm in his waistband, at the small of his back. Upon Sergeant C's arrival, Officer A informed him that he had fired his weapon and subsequently recovered the firearm belonging to Subject 1. Officer A and Sergeant C walked to the trunk of Sgt. Thompson's vehicle, at which time Officer A unloaded Subject 1's weapon and placed it in

²⁶ Statement of Officer A Att 188, Page 14, Line 23

²⁷ Statement of Officer A Att 188, Page 22, Line 12

²⁸ Statement of Officer A Att 188, Page 13, Line 12-16

the truck. Officer A stated that he explained to his responding supervisors, and the responding detectives, his reasoning for securing Subject 1's firearm.

Officer A stated that on the evening of the shooting, while at the Area, he became aware that there was video footage from a patrol car that captured the shooting incident. Officer A stated that he did not view the footage on that date, but that he later viewed it in with his representative from the City of Chicago's Law Department, in preparation for the civil suit regarding this matter. Officer A stated that, to date, he has seen the video no fewer than ten different times.

Officer A explained that the ammunition in his firearm was department approved, but that he must have inadvertently loaded his weapon with two different forms of the Federal .45 caliber ammunition. Officer A admitted that his firearm was improperly loaded with mismatched ammunition, in violation of department policy.

Officer A explained that he failed to attend his prescribed firearms qualification. Officer A did not have a viable excuse for failing to schedule an appointment to qualify. Officer A admitted to the allegation made herein that he violated department policy by failing to qualify with his firearm as mandated.

Officer A stated that at the time of this shooting, he was aware of a safety bulletin circulated with the Chicago Police Department regarding a recent incident wherein a fleeing subject had shot a police officer pursuing him. Officer A explained that in said incident, it was documented that the subject did not look back at the officer whom he shot, and instead fired blindly behind him.²⁹

At the conclusion of the interview, Officer A reiterated the reasons he elected to use deadly force. Officer A cited, "the multiple calls of shots fired with the discretion, same description matching what Subject 1 was wearing, in addition to him being combative while he was armed to refusing multiple orders from different officers to drop the gun. He had plenty of opportunity to just give up or drop the gun the way most offenders usually do. I didn't know what to expect at this point in time that he fought two officers while he was armed. I didn't know what else to expect besides him trying to defeat the arrest by discharging his firearm to clear a distance to get away from us."³⁰

Officer A added, "I felt that he was going to discharge that weapon in either my direction or the direction of other officers."³¹

Wound Evidence

In his postmortem examination of Subject 1's body, Assistant Medical Examiner Dr. A identified two gunshot wounds³²:

²⁹ The 13 October 2011 incident is reflected in Chicago Police Department report RD# XXXXXXXXX. Video evidence from this event depicts a subject running with a firearm in his hand, shooting back at the pursuing officer without turning his body.

³⁰ Statement of Officer A Att 188, Page 50-51 Line 16-24

³¹ Statement of Officer A Att 188, Page 51 Line 19

1. A perforating gunshot wound indicating the bullet entered at “the posterior, inferior right shoulder,” traveled “upward, forward and leftward,” fractured the right scapula and facial bones, and exited at the “left medial upper eyelid.” Autopsy Photo #075 depicts the location of the entrance wound: on the right side of the body, approximately 1-2 inches from the left/back side of the armpit, just beneath where the underside of the arm meets the torso. The edges of the entrance wound featured a concentric abrasion measuring 0.1 inch in diameter.
2. A perforating gunshot wound in which the bullet entered at “the right distal, posterior thigh” 1 inch above the knee, traveled “downward, forward and leftward,” fractured the right femur, fractured and ricocheted off the right patella, and came to rest in the soft tissue behind the right patella. The edges of the entrance wound show abrasion measuring less than 0.1 inch in diameter.

CONCLUSIONS AND FINDINGS:

ALLEGATION #1: Use of Deadly Force

With regard to Allegation #1, 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;
 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.”

The officers in this incident, to include Officer A, all responded to the area of W. 53rd Street and S. King Drive, to multiple reports of gunshots that had been heard. The area in question had been previously identified as a location prone to recent gun violence, so prevalent

³² The wounds are designated by number for ease of reference. Number designations are not intended to indicate temporal or any other kind of order or sequence. There is no way to scientifically or conclusively establish the order in which the bullets struck the body.

in fact that it was the target area for a Violence Reduction Initiative launched by CPD. On their arrival, the officers were made aware that Subject 2's vehicle had been struck by gunfire, supporting the validity of the call the officers were responding to.

Simultaneous to the officers' arrival, Subject 1 observed a responding police vehicle and fled on foot. It was relayed via police radio that the officers were involved in a foot pursuit with a black male wearing dark clothing and a dark color hooded sweatshirt, a physical description similar to the description of a shooter provided in the original OEMC call.

Officer A knew, as he was arriving to the scene, that officers who had responded to the call of shots fired had discovered evidence of gunfire; were now chasing a person from the specific area where the shots were heard; and who matched the description of the suspect involved in the gunfire.

As Officer A arrived, he observed Officer B and Officer C involved in a physical struggle with Subject 1, who was attempting to defeat their efforts to arrest him. Officer A was able to see that Subject 1 was armed with a firearm as he was struggling with the officers. Officer A's partners confirmed Officer A's observation when they too saw the firearm and yelled out, "gun, gun!"

Officer A observed Officer C fall to the ground as a result of his contact with Subject 1, and observed Subject 1 successfully defeat Officer B's efforts to detain him. As Subject 1 ran towards, and then behind, the police vehicle Officer A was in, he was able to see that Subject 1 was still armed with the weapon.

Officer A stated that as he exited his vehicle he observed that additional police vehicles were traveling through Washington Park, on an apparent course to intercept Subject 1 as he ran east.

1. Officer A reasonably believed that Subject 1 was a threat because he wielded a firearm as he attempted to evade being arrested.

Although there is conflicting evidence on this issue, the preponderance of the evidence supports the conclusion that Subject 1 was in possession of a firearm. The physical evidence and the bulk of the witness accounts indicate that Subject 1 had a gun in his hand at the time Officer A shot him:

- Although in a deposition taken almost a year later he recanted portions of his account of the events, on the night in question, Subject 1's companion Subject 2 stated that, while driving away from the party, he heard the sound of a pistol being "cocked" behind him and concluded that Subject 1 (seated behind him in the backseat) had a gun. This is supported by the recovery of an unfired cartridge from the backseat of Subject 2's car, and by the firearm/toolmark specialist's observation that the gun was in poor condition and did not cycle properly.³³

³³ This was the account that Subject 2 gave at his IPRA interview on 12 October 2014. Later, at his 9 September 2015 deposition, Subject 2 changed his account and stated that he had no knowledge that Subject 1 or anyone else in his car that evening had a firearm, and that he had assumed Subject 1 had had a weapon after detectives told him that

- Officers D, E, C, B, J, and Sergeant A all reported seeing Subject 1 running with a gun in his hand.
- Officer E reported that he yelled “he’s got a gun” to Officers A and D. This is corroborated by Subject 1’s companion Subject 3, who reported hearing someone yell “he got a gun!” during the police pursuit of Subject 1.
- A Browning 9mm pistol was immediately recovered from the ground under Subject 1’s hand.³⁴
- DNA analysis established that the blood on the barrel of that gun came from Subject 1.³⁵
- Although Subject 2 saw officers stand over Subject 1’s body after the shooting, he did not see any of the officers bend down and move or take anything from the ground where Subject 1 had fallen. Both video and officers’ accounts indicate that a crowd of hostile onlookers gathered at the scene almost immediately.

Video of the shooting is low-resolution and recorded at night. The video did not clearly show whether Subject 1 had a gun or any other



Fig. 1

object in his hands. However, the video is not dispositive. Other officers are later visible in the same area as Subject 1, moving through a “cone” of light provided by a streetlight. The officers’ weapons are visible in their hands *before* entering the lighted area (Figure 1), but once they enter the lighted area, the weapons are no longer visible in their hands (Figure 2). Thus, although a weapon is not visible in Subject 1’s hand as he runs through the lighted area, this is not dispositive on the issue of whether or not he had a gun in his hand at the time.



Fig. 2

Subject 4 and Subject 3 provided the testimony contradicting the allegation that Subject 1 possessed a gun during the incident. Subject 4 is Subject 1’s cousin and was one of his three companions at the time of the incident. Subject 4 stated that Subject 1 did not have a gun that night, and that Officer A began shooting as Subject 1 began to raise his hands in the air and change his posture consistent with coming to a stop after running. Subject 4 further stated that Subject 1’s back was facing Officer A at the time the shots were fired, and that Subject 1 did not

a live round had been found in his backseat and Subject 1 had been found to be in possession of a firearm. Subject 2 stated that he made this assumption because “a gun had to be involved in the story.” At that point, Subject 2 stated he was not certain that the sound he heard was a gun cocking, as he had originally indicated.

³⁴ The call of “shots fired by [police]” came across at 00:41:38; less than two minutes later the call of “weapon recovered” came across at 00:43:32. Att. 23.

³⁵ The laboratory report indicates that 1 in 490 quintillion unrelated black males could not be excluded from contributing to the DNA present on the weapon. As Subject 1’s cousin, Subject 4 is a related black male and thus theoretically could also be another potential source of the blood. However, Subject 4 did not report having contact with the gun, nor any injuries or bleeding that could have resulted in his blood coming into contact with the gun.

turn back to present any threat. Subject 3, another of Subject 1's three companions, stated that he did not see anyone in Subject 2's vehicle with a firearm. Subject 3 also stated that, at the time Officer A fired, Subject 3 saw Subject 1 with his back facing Officer A with his hands in the air, and saw no weapon or any other object in Subject 1's hands.

Video of the shooting shows that Subject 4's and Subject 3's descriptions of the position of Subject 1's body were inaccurate. The video shows that Subject 1's hands were not in the air, and that Subject 1 had turned back partially toward Officer A and raised his arm. Subject 3 reported that he has poor eyesight and "need[s] glasses to really see;" this impairment may explain the discrepancy between the video and his description.

In several separate statements, Subject 1's associate, Subject 2, related that immediately prior to this incident, he heard the sound of a firearm being cocked from the seat in his vehicle where Subject 1 was sitting. A Tulu brand live round of 9mm ammunition was later recovered from said seat. The round was examined by the ISP ballistics lab, leading to the discovery of tool marks on the round that could not be excluded as having been made by the Browning Arms 9mm recovered from Subject 1. Although Subject 2 later modified his statement in the 2015 deposition, the original version, as told to IPRA investigators in 2014, is more credible. The IPRA statement was taken on 12 October 2014, less than seven hours after the incident occurred. In that statement, Subject 2 told investigators that he had heard the sound of a gun being "cocked," coming from where Subject 1 was seated in the car. In the statement, Subject 2 is very detailed about the cocking sound that he heard: he had been making the turn down Prairie Avenue, at the same time he was being told to return to the party by one of his passengers³⁶; he saw a blue and white Chicago Police vehicle around the same time as he heard the cocking sound; but he did not pull over to speak to the police because he had just heard the cocking sound and he "went into a panic."³⁷ The level of detail and justification that Subject 2 went into lends credibility to his statement that he heard the cocking sound of a pistol from the area directly behind him. The timing of the statement also lends credibility to this version, as this statement was taken less than seven hours after the event had occurred, in comparison to the deposition, taken 9 September 2015, since memories tend to fade with time.

In weighing the credibility of eyewitnesses, the disciplinary histories of the eyewitness officers were examined. There were no other sustained excessive force complaints or otherwise troubling incidents among the officers who had stated they saw Subject 1 with a weapon, or saw Subject 1 struggle with other officers on scene. The relevant criminal history of each of the civilian witnesses was also weighted in order to assess their credibility. Subject 2 and Subject 3 did not have any criminal history. Subject 4 had two prior felony convictions, which were considered but ultimately did not impact this investigation.

The ISP reports indicate that a swab of the barrel of the Browning Arms 9mm pistol reportedly belonging to Subject 1 was collected. Subject 1 could not be excluded as the contributor to the human male DNA present on the barrel of the firearm. The reports indicate that 1 in 490 quintillion black males, 1 in 11 sextillion white males, and 1 in 210 sextillion Hispanic males could not be excluded from contributing to the DNA present on the weapon.

³⁶ Subject 2 stated that he could not recall which of his passengers told him to make a right turn to go back to the party.

³⁷ Attachment 31, Page 16, 17, 19, 20, 32, 33

In their statements to IPRA, seven (7) different officers stated that they saw Subject 1 with a firearm in his right hand, while three (3) additional officers relate that although they did not actually see the firearm, Subject 1's actions and the totality of the circumstances led them to believe he was armed.

It is undisputed that a firearm was recovered from the scene, and it is likely that the firearm belonged to Subject 1, for several reasons. First, the gun was found on the ground, where Subject 1 was laying, with Subject 1's hand still touching the weapon.³⁸ In fact, the weapon, when it was photographed by the evidence technician, still had grass and dirt in the slide of the gun.³⁹ Similarly, there was also grass on Subject 1's body when he was photographed by the evidence technician.⁴⁰ Additionally, there was blood found on the weapon, which was statistically probable to be that of Subject 1.⁴¹ Moreover, a live 9mm round of ammunition was recovered from the back seat of Subject 2's vehicle, where Subject 1 had been moments earlier and Subject 2 stated he heard a firearm "cock" from the back seat. According to the Crime Scene Processing Reports, this round of ammunition matched not only the caliber of the round of ammunition found in the gun recovered from Subject 1, but was also the same brand, TulAmmo.⁴²

While it is of course possible that Subject 1 did not have a firearm when he was shot, the totality of the evidence makes this unlikely for several reasons. Regarding the firearm itself, as discussed above, the gun had grass and Subject 1's blood on it when it was recovered. If Subject 1 had not previously possessed that weapon, an officer that would have purportedly planted the weapon would have needed the foresight to drag the gun in Subject 1's blood. Also, the ammunition round in the backseat of Subject 2's car matching the ammunition found in the gun near Subject 1 weighs toward the weapon actually belonging to Subject 1. If that were not the case, it would have been pure coincidence that both the caliber and brand matched, or a police officer would had to have removed a round from the weapon and placed it in the back seat, without leaving fingerprints and without being seen by other witnesses, before the crime scene team arrived and began processing the vehicle.

There are also multiple timing factors adding to the likelihood that the gun was Subject 1's. First, multiple witnesses, including Subject 1's friends and family members as well as police officers on the scene, state that officers were yelling "He's got a gun!" before Officer A fired at Subject 1.⁴³ This means that, if we are to believe Subject 1 did not have a gun that night, a conspiracy among the officers to make it appear as though he did had already begun, before a single shot was fired. This fact tends to make it more likely that Subject 1 did have a gun before he was shot. Also, the timeframe between the "shots fired by police" call and the "gun recovered" call was extremely short, only 1 minute and 42 seconds.⁴⁴ Again, this would necessitate the officer or officers to have the foresight to bring an additional gun to the scene,

³⁸ Attachment 140, Page 124

³⁹ Attachments 58, 128-132, 143, 149

⁴⁰ Attachment 58

⁴¹ Attachments 67, 146

⁴² Attachments 106-109

⁴³ Attachment 120, Page 28, deposition of Subject 2. Attachment 176, Page 25, deposition of Subject 4. Attachment 125, Pages 65, 76, deposition of Officer E.

⁴⁴00:41:38 "Shots fired by [police]" call;00:43:32 "gun recovered" call.

produce the weapon, drag the firearm in Subject 1's blood, throw it into the grass such that grass would become lodged in its slide, place it near Subject 1's body, and then radio in that a weapon had been recovered, all within 1 minute and 42 seconds, all while being observed by bystanders and while the other officers stood by silently.

These facts, combined, make it far more likely that that Subject 1 had a weapon at the time he was shot.

2. Officer A's belief that Subject 1 presented a threat of death or great bodily harm to himself and the other responding officers was objectively reasonable under the circumstances.

As outlined above, the evidence supports that Subject 1 was armed. The question remains whether Subject 1 presented an imminent threat of harm to Officer A and the other responding officers as he fled, particularly in light of the fact that the medical examiner's report documents that Subject 1 was shot in the back. The facts here support Officer A's perception that Subject 1 was a potential threat to him and the other responding officers.

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. He had already gotten into a physical altercation with one officer causing that officer to either fall to or be taken to the ground.

Officer A and his fellow officers issued multiple commands to Subject 1 to stop running to and drop his weapon, all of which Subject 1 ignored as he continued to flee in his effort to escape apprehension. Officer A understood that there had been shots fired in the area earlier and that Subject 1 matched the description of an individual that had been seen in the neighborhood with a firearm.

The law is clear and well-established regarding the use of deadly force by police officers. First, the analysis of the circumstances must be from a perspective of "a reasonable officer on the scene, rather than with the 20/20 vision of hindsight . . . We thus allow for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Plumhoff v. Rickard*, 134 S. Ct. 2012, 2020, 188 L. Ed. 2d 1056 (2014), quoting *Tennessee v. Garner*, 471 U.S. 1, 105 S. Ct. 1694, 85 L. Ed. 2d 1 (1985), internal quotation marks omitted. Also, such an analysis must take into account the totality of the circumstances confronting the officer, rather than just one or two factors. *Plumhoff*, 134 S. Ct. at 2020. See also *Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003). In this case, Officer A was confronted with a situation where: (1) he had been called to the scene for a car that had been struck by gunfire; (2) he was aware that other responding officers were engaged in a pursuit with the suspect (later determined to be Subject 1); (3) initiating from the specific area where the gunfire was heard; (4) as he arrived on the scene, he observed the suspect, who matched the physical description of the shooting suspect; (5) that suspect was engaged in a struggle with other responding officers; (6) which resulted in at least one officer falling to the ground; (7) the

suspect then continued to evade arrest; (8) other officers gave verbal warnings that the suspect had a gun; (9) as the suspect ran past Officer A, he visually confirmed that the suspect had a gun; (10) the suspect continued evading the officers and was running directly towards other responding officers. In this case, the totality of the circumstances led Officer A to reasonably believe that the use of deadly force was appropriate.

It should be noted that although Officer A knew that he had initially been called to the scene due to shots fired, and had later been updated that the shots had actually struck a car, Subject 1 is not the individual who fired the shots. However, based on the proximity, timing, location, and the manner in which Subject 1 was fleeing, it was reasonable for Officer A to surmise that Subject 1 may have been the subject of either the “shots fired” calls or the report that a civilian’s car had been fired upon. To be sure, an officer is entitled to make judgments based on the knowledge he had at the time: “The objective reasonableness of a police officer’s actions depends upon ‘the information [the officer] possessed immediately prior to and at the very moment [she] fired the fatal shot.’” *Jaffee v. Redmond*, 51 F.3d 1346, 1353 (7th Cir. 1995), *aff’d*, 518 U.S. 1, 116 S. Ct. 1923, 135 L. Ed. 2d 337 (1996), quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir.1988).

Both Illinois and Federal courts also support the notion that police officers are permitted to utilize deadly force when the officer “believes that a suspect’s actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury.” *Scott v. Edinburg*, 346 F.3d 752, 758 (7th Cir. 2003), quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir.1988) (en banc) (internal quotation marks omitted). See also *Ford v. Childers*, 855 F.2d 1271, 1275 (7th Cir. 1988) (a reasonable belief that danger exists may be formed by reliance on appearances; a police officer was justified in using deadly force when responding to a bank’s silent alarm and based on the information he possessed and the circumstances, the officer reasonably but mistakenly concluded that the fleeing suspect had a weapon).

3. Officer A’s use of deadly force was reasonable notwithstanding the fact that Subject 1 appeared to have been walking or running away from the officers.

Furthermore, case law suggests that Officer A was justified in using deadly force at the moment he did, rather than waiting for Subject 1 to fire upon Officer A or anyone else in the area. At the point Officer A saw Subject 1 attempting to escape with a handgun, after having just assaulted a police officer, Officer A was entitled to use deadly force to prevent Subject 1’s escape. Courts, in this jurisdiction and across the country, have repeatedly and broadly rejected second-guessing of the split second decisions officers are forced to make in confronting rapidly evolving situations. *Williams v. Indiana State Police Dep’t*, 797 F.3d 468, 479 (7th Cir. 2015) See also *Montoute v. Carr*, 114 F.3d 181, 185 (11th Cir. 1997) (“... an officer is not required to wait until an armed and dangerous felon has drawn a bead on the officer or others before using deadly force); see also *Blanford v. Sacramento County*, 406 F.3d 1110, 1116 (9th Cir. 2005) (concluding that officers did not use excessive force in shooting a suspect who was carrying a sword, had failed to comply with orders to drop the sword, and was attempting to enter a house that—as far as the officers knew—might or might not have been empty, even though the suspect was at all times walking *away* from the officers and did not actually threaten the officers—or anyone else—with the weapon); see also *Long v. Slaton*, 508 F.3d 576, 581 (11th Cir. 2007), (“Even if we accept that the threat posed by Long to Deputy Slaton was not immediate in that the cruiser was not moving toward Slaton when shots were fired, the law does not require officers in

a tense and dangerous situation to wait until the moment a suspect uses a deadly weapon to act to stop the suspect.”)

Officer A articulated his observation that the weapon in Subject 1’s hand began to change positions, leading Officer A to fear that Subject 1 was preparing to turn the weapon upon him, other pursuing officers, or the officers that were approaching from the park. In his statement to IPRA, in discussing his decision to use deadly force, Officer A expressed that he “wasn’t going to wait for him to discharge at either myself or any other officer when the gun changed positions, I didn’t know what to expect and I thought he was going to discharge his firearm.”

In his support of this observation and the potential for an officer to be fired upon in a similar situation, Officer A explained that he is aware of incidents wherein a subject in flight can, and has, fired a weapon at the officer(s) pursuing him, without turning around or aiming his weapon. Officer A referenced the specific event, which is documented in CPD RD# HT541634.

4. Officer A’s use of force was also permissible to prevent an arrest from being defeated by the resistance or escape of a forcible felon.

The General Order also permits the use of deadly force by an officer who reasonably believes that such force is necessary to prevent an arrest from being defeated by resistance or escape and that the person to be arrested has committed or has attempted to commit a forcible felony. IPRA finds that Officer A’s use of deadly force was also justified on the basis. An officer with Officer A’s training and experience would have been reasonable in believing that Subject 1 had committed a forcible felony, namely, aggravated discharge of a firearm. Furthermore, Illinois statute 720 ILCS 5/7-5 states that “a peace officer . . . is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that: (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and (2) The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay. 720 ILCS 5/7-5(a)

The CPD Deadly Force policy, reflecting the underlying constitutional safeguards, permits the use of deadly force to prevent the escape of a violent felon. See *Tennessee v. Garner*, 471 U.S. 1, 105 S. Ct. 1694, 85 L. Ed. 2d 1 (1985) (holding that, if an officer has probable cause to believe that a fleeing suspect has committed a crime involving the infliction or threatened infliction of serious bodily harm, deadly force may be used if necessary to prevent escape, and, if feasible, some warning has been given); see also *Ford v. Childers*, 855 F.2d 1271, 1275 (7th Cir. 1988) (en banc) (finding no Fourth Amendment violation when officer fired at a suspect because he reasonably believed that the suspect had committed a felony involving the threat of deadly force, was armed with a deadly weapon, and was likely to pose a danger of serious harm to others if not immediately apprehended). In the case at hand, Officer A reasonably believed that Subject 1 had just committed a forcible felony, in that he fit the physical description of an individual who had reportedly just fired shots into an automobile and was seen

fleeing the immediate vicinity with a gun. Additionally Officer A observed Subject 1 in a physical confrontation with Officer C and Officer B as they attempted to detain him. During the struggle Subject 1 flailed his upper body and shoulders back and forth causing Officer C to fall to the ground. Subject 1 then continued running in an attempt to escape. Because of Officer A's belief that Subject 1 had just committed a forcible felony, and the danger to himself and to other officers in the area, Officer A was entitled to use deadly force against Subject 1 in order to prevent his arrest being defeated by resistance or escape.

In summary, Officer A was aware that there were reports of shots fired in the area, a specific individual had reported that his car had been shot, and Subject 1 matched the general description of a person who was reportedly carrying a firearm. Moreover, Subject 1 was attempting to defeat arrest and was ignoring the officers' demands to drop the gun. Though Subject 1 was moving away from Officer A, Officer A had seen him physically engaging with other officers, and Subject 1 had a gun. Additionally, Officer A could see that Subject 1 was running a path that would lead him to converge with the path of a squad car coming through the park, potentially putting the officers in the squad car in danger. Based on the totality of circumstances, Officer A's use of deadly force was objectively reasonable on this basis as well. Therefore, Officer A's use of deadly force against Subject 1 was objectively reasonable, and therefore, WITHIN the policy of the Chicago Police Department.

We want to make clear that, while we conclude here that Officer A was justified in his use of deadly force against an armed suspect despite the fact that he was running away from the officers, we do NOT hold the view that Chicago Police Officers are always justified in using deadly force against an armed suspect who is fleeing. In this case, there are specific and numerous circumstances that make such use of force reasonable. More specifically, and as outlined above: (1) officers had been called to the scene for a car that had been struck by gunfire; (2) the firing officer here was aware that other responding officers were engaged in a pursuit with the suspect (3) initiating from the specific area where the gunfire was heard; (4) as the officer arrived on the scene, he observed the suspect, who matched the physical description of the shooting suspect; (5) that suspect was engaged in a physical struggle with other responding officers; (6) which resulted in at least one officer falling to the ground; (7) the suspect then continued to evade arrest; (8) other officers gave verbal warnings that the suspect had a gun; (9) as the suspect ran past Officer A, he visually confirmed that the suspect had a gun; (10) the suspect continued evading the officers, which resulted in him running a path that would have him converging with other responding officers; Officer A was justified in using deadly force in this specific instance.

ALLEGATION #2: Recovery of Subject Firearm

The Chief Administrator recommends **Allegation #2**, that Officer A violated department policy, Special Order S07-01-04, in that he disturbed evidence by recovering a firearm from Subject 1 before it could be properly processed, be **EXONERATED**.

Officer A articulated that as he approached Subject 1, he was able to see that Subject 1 appeared to still have control of his firearm, as it lay on his outstretched fingers. Officer A further articulated that he was unsure as to the severity of Subject 1's injuries, and could in fact still see that Subject 1 appeared to be breathing. To leave the firearm where it was, within reach

or under control of Subject 1, could have been negligent, and a potential risk to officer safety. The exigent circumstances to secure the firearm were certainly present.

Multiple witness officers, in their statements to IPRA, explained that a large and unruly crowd was gathering in the area after the shooting. These accounts are corroborated by the OEMC records which verify a civilian called 911 requesting additional officers be sent to the scene because the crowd was “going crazy” and it was “like a riot.”⁴⁵ The presence of a large group of citizens encroaching on an unsecured scene would also create exigent circumstances to justify immediately securing the firearm.

Officer A explained that, beyond his evaluation of the circumstances made at that moment, he had been trained at the Chicago Police Department Academy to secure any weapon in a similar situation, in a similar and immediate manner. Special Order S07-01-04 of the Chicago Police Department outlines the proper procedure for recovering firearms, though the order includes multiple references to the caveat that should exigent circumstances exist, then the weapon should be secured immediately. Therefore, this Allegation must be classified as EXONERATED.

ALLEGATION #3: Failure to Qualify Service Weapon

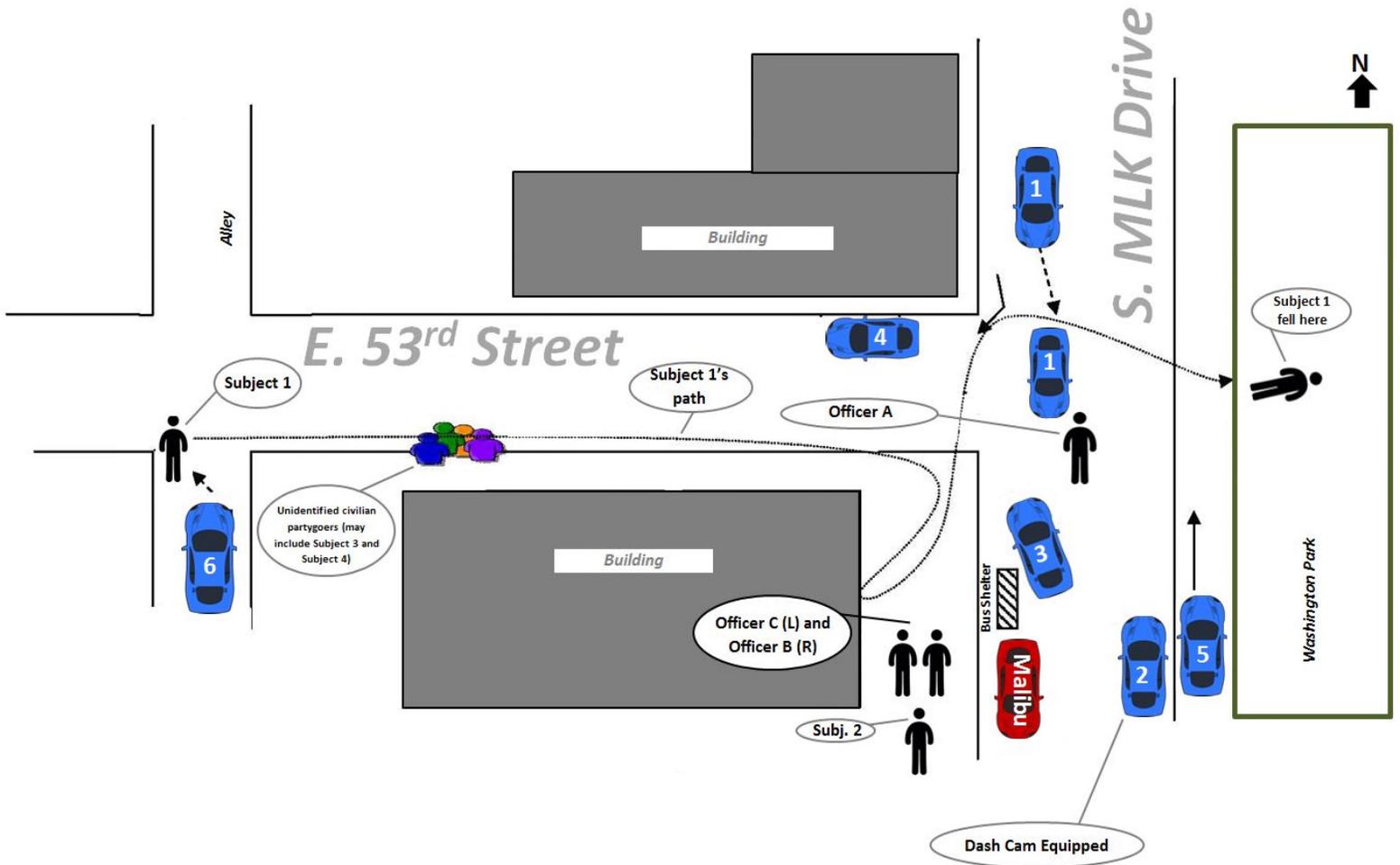
The Chief Administrator recommends **Allegation #3**, that Officer A violated department policy in that he failed to qualify with his firearm, as required under Special Order S11-03-01, be **SUSTAINED**. The order clearly articulates that it is the responsibility of the member to ensure that they are scheduled to attend the Prescribed Weapon Qualification Program. Officer A failed to complete this requirement and admitted to the allegation.

ALLEGATION #4: Use of Mismatched Ammunition

The Chief Administrator recommends **Allegation #4**, that Officer A violated department policy, Uniform and Property Order U04-02-01, in that he had mismatched ammunition loaded in his firearm, be **SUSTAINED**. Though all of the ammunition that Officer A used was department approved, section II. B. 3 of the aforementioned order defines that weapons will be loaded with only one manufacturer and style of prescribed ammunition. Though the “Federal” rounds loaded in Officer A’s weapon meet the identical manufacturer requirement, the incongruity of the “+P” and standard rounds is a violation of the “style” requirement of this order.⁴⁶

⁴⁵ Att 23

⁴⁶ The “+P” ammunition is loaded to a higher pressure than a standard round. Though department approved, this particular ammunition differs in style from the standard round.



Not to scale – for demonstrative purposes only

- 6 – Sergeant A
- 1 – (unmarked) D/A/E
- 4 – I/H

- 5 – (unmarked) J/K
- 3 – (unmarked) C/B
- 2 – G/F