

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1065582 / U #13-38

SUBJECT: Log #1065582/ U# 13-38

DATE/TIME: 18 October 2013 at 0124 hours

INVOLVED OFFICER: **Officer A;** Police Officer, Star #XXXXXX, Unit XXX, F/W, Beat XXXX, Employee No. XXXXX, DOB: XX XXX 71, DOA: 28 SEP 98, On-Duty, In Uniform.

OFFICER'S WEAPON: Smith & Wesson; Model 5943 (Bodyguard, Chief Special), 9mm, Serial #XXXXXXXX, City Registration #XXXXXXXX, FOID #XXXXXXXX; Eleven (11) live rounds recovered, weapon capacity of sixteen (16) rounds, Fired five (5) times
Inventory #XXXXXXXX

OFFICER'S INJURIES: None Reported.

WITNESS OFFICER #1: **Officer B;** Police Officer, Star #XXXXXX, Unit XXX, M/H, Beat XXXX, Employee No. XXXXX, DOB: XX XXX 68, DOA: 21 JUN 99 On-Duty, In Uniform.
No Injuries Reported

SUBJECT: **Subject 1;** M/H, DOB: XX XXX 68, XXXX S. Halsted St., #XX; Chicago, Illinois

SUBJECT'S WEAPONS: Twelve (12) inch knife – Inventory #XXXXXXXX
Four (4) inch lock blade – Inventory #XXXXXXXX

SUBJECT'S INJURIES: One (1) Gunshot wound to chest, One (1) Gunshot wound to the left calf, One (1) Gunshot wound to lower left leg, One (1) Gunshot wound to right thigh.
Fatal

LOCATION: XXXX S. Halsted St.
Beat XXX

TIME OF IPRA NOTIFICATION: 0235 hours.

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SUMMARY OF INCIDENT:

This investigation, in conjunction with information gained through the investigation initiated by the Chicago Police Department, revealed the following.

On 18 October 2013, at approximately 0110 hours, Officers A, #XXXXXX and B, #XXXXXX, assigned to Beat XXXX, responded to a domestic disturbance at XXXX S. Halsted. Upon their arrival, Officers A and B were met by the victim, Witness 1 in front of the apartment building. Witness 1 informed the officers that she had been beaten, choked and sexually assaulted by her fiancé, Subject 1, and that she feared Subject 1 would kill her. Witness 1 walked the officers to the rear of her second floor apartment and attempted to open the door, but it was locked. Witness 1 knocked on the door and Subject 1 opened the door, at which time Witness 1 observed Subject 1 holding a knife his hands. Witness 1 alerted the officers that Subject 1 was armed. Witness 1 ran down the stairs while Officers A and B stood on the second floor landing, directly in front of the door. Subject 1 stood inside the apartment holding two (2) knives, one in each hand. The officers repeatedly ordered Subject 1 to drop the knives but he refused to comply. Subject 1 then stated words to the effect of, "You'll have to shoot me," and approached the officers as he held the knives in a threatening manner. Officer A discharged her firearm, five (5) times, fatally striking Subject 1. Subject 1 was pronounced dead at the scene. Two (2) knives in close proximity to Subject 1's body were recovered and inventoried.

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APPLICABLE RULES:

General Orders

- G03-02: Use of Force Guidelines
- G03-02-01: The Use of Force Model
- G03-02-03: Use of Force Options
- G03-02-05: Incidents Requiring Completion of a TRR
- G03-02-06: Firearms Discharge Incidents

INVESTIGATION:

The **IPRA Preliminary Report** essentially related the same information as the Summary of Incident of this report. (Att. 58).

In her **statement with IPRA**, on 18 October 2013, **Witness 1**, who identified herself as the fiancé of Subject 1, related an account of the incident which was similar to the facts contained in the Summary of Incident.¹ Witness 1 called the police to her residence because she and Subject 1, who was intoxicated, became involved in a verbal altercation.² During the course of the verbal altercation, Witness 1 informed Subject 1 of her plans to get a two (2) bedroom apartment with her daughter, Witness 2, at the end of the month. At that point, Subject 1 became physical with Witness 1 and kicked her in the stomach. Witness 1 opted not to engage Subject 1 and went to bed. Subject 1 grabbed Witness 1, who was laying on her right side and began head butting her from behind. Subject 1 turned Witness 1 over, removed her pants and stuck his hands inside her vagina, which hurt Witness 1. Witness 1 attempted to kick Subject 1 off of her, but was unsuccessful. Subject 1 then turned Witness 1 over and stuck his fingers inside her. Witness 1 was initially able to get away from Subject 1 and informed Subject 1 she was done with the relationship. Subject 1 got on top of Witness 1 and began choking her. Subject 1 raised his fist in the air and stated, "It only takes one hit Witness 1, one hit Witness 1 and I'll kill you." Witness 1 stated that during this time Subject 1 repeatedly called her "cunt," "bitch," and "whore." Witness 1, who could not breathe, was afraid that Subject 1 would kill her, and pounded on the wall in an attempt to get the attention of her daughter, Witness 2. Witness 2 entered the room and attempted to hold Subject 1 back, but was unsuccessful as Subject 1 attacked Witness 1 again. At this point, Witness 3, who is the boyfriend of Witness 2, gave Witness 1 the telephone and Witness 1 called 911. Witness 2 and Witness 3 kept Subject 1 in the apartment. Witness 1 ran down the stairs and met the responding officers upon their arrival. Witness 1 informed the officers what happened. Witness 1 recognized one of the male officers as one of the officers who had responded

1. Witness 1 had known Subject 1 for thirty (30) years prior to beginning a dating relationship in July 2012. Witness 1 moved in with Subject 1 in August 2012.

2. Witness 1, who consumed six (6) bottles of Miller Lite beer, estimated that Subject 1 consumed eighteen bottles of beer.

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to a request for service at the residence approximately one month prior.³ The officers escorted Witness 1 upstairs to the rear door of her residence. Witness 1, who was positioned between the male officer (Officer B) and female officer (Officer A), attempted to enter the residence but was unable to, as the door was locked. Witness 1 called out for Witness 2 to open the door. Subject 1 opened the door and when he stepped back Witness 1 observed Subject 1 to have a knife with a white handle in his hand.⁴ The officers instructed Witness 1 to go downstairs. Witness 1 heard Subject 1 state words to the effect of "I don't got nothin' to lose." Witness 1 heard the officers instruct Subject 1 to "drop the knives," which is when she learned Subject 1 had two (2) knives in his hands.⁵ One of the officers directed Witness 1 to go to the front of the building to show the responding units how to get to the residence. Within a minute, Witness 1 heard two (2) shots and ran back upstairs to the residence as her daughter was in the residence. Witness 1 did not observe Officer A discharge her weapon.

According to Witness 1, she had noticed a change in Subject 1's personality since he lost his job in late June/early July. According to Witness 1, Subject 1 had become bitter, angry, miserable, and argumentative. Witness 1 stated that their fighting escalated and, following a physical altercation approximately one month earlier (August 2013) where she sustained a physical injury resulting in a scar, she asked Subject 1 to move out of the residence. Witness 1 and Subject 1 had since reconciled and were again residing together, based on what she described as a change in Subject 1's behavior from the August 2013 incident. Witness 1 stated that during her physical altercation with Subject 1 earlier that evening, she believed he was going to kill her. (Atts. 20, 48).

In a **statement** with IPRA, on 18 October 2013, **Witness 2**, who is the daughter of Witness 1, provided an account of the incident which was similar to the account given by her mother. Witness 2 stated that, at around midnight, she and her boyfriend, Witness 3 were in the process of going to sleep. At that time, they heard Witness 1 and Subject 1 arguing over the remote control. According to Witness 2, she heard a lamp break, followed by her mother pounding on the wall as she called out to her and yelled, "Stop choking me!" Witness 2 entered her mother's room and observed Subject 1 positioned over Witness 1, choking her with his fist raised as if he (Subject 1) was going to hit her (Witness 1). Witness 2 positioned herself between Witness 1 and Subject 1 as Subject 1 continued to threaten Witness 1 by stating words to the effect of, "It only takes one hit." Witness 2 and Witness 3 separated Witness 1 and Subject 1. Witness 1 got dressed and asked for a phone. Witness 2 gave Witness 1 a phone so she could call the police. Witness 2 and Witness 3 kept Subject 1 away from Witness 1, who was able to exit the residence. Subject 1 got dressed and exited the room with a pocket knife. Witness 2 believed that Subject 1 was going after Witness 1 and called out to her. Subject 1 went to the kitchen and took a large kitchen knife out of the drawer. Subject 1 stated "she wants to call

3. A Service Call Search conducted for the location of XXXX South Halsted for the time frame of 01Jan2012- 01Jan-2014 confirmed that on 24 July 2013, Officer C responded to a domestic disturbance at the Witness 1/Subject 1 residence.

4. During the course of her statement, Witness 1 described the knife that Subject 1 was holding when he opened the door on the date of this incident as a twelve (12) inch kitchen knife with a white handle.

5. While Witness 1 did not personally observe Subject 1 to have a pocket knife in his hand when he opened the door on the date of this incident, she stated her daughter was attempting to tell her that Subject 1 had another knife. According to Witness 1, she reported that Subject 1 carries pocket knives on his person to the responding officers when they arrived on scene.

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the cops, the first cop who comes through the door is gonna get shanked.” Subject 1 was agitated and stated he had “nothing to lose,” as Witness 3 attempted to calm him down. At that point, Witness 1 knocked on the door. Witness 2 and Witness 3, who were in the kitchen, heard Witness 1 scream, and observed two (2) uniformed officers, one male and one female in the doorway with their guns out. Witness 2 and Witness 3 moved towards the refrigerator, which is in the corner of the kitchen. From that location, Witness 2 could see only the male uniformed officer. The officers repeatedly ordered Subject 1, who had a knife in each hand, to put the knives down, but Subject 1 refused to comply.⁶ Subject 1 replied that he had nothing to lose and that he was tired of everything. Subject 1, who still had the knives in his hands, asked the officers, “What if I take two steps?” Subject 1 took one step and again the officers ordered Subject 1 to drop the knives. At this point, Subject 1 took another step towards the officers as he changed his grip on the knives which were now pointing toward the officers. When questioned as to the location of the officers and Subject 1 at this time, Witness 2 placed Officer B at the doorway and Subject 1 an arm’s length away. It was at that point, Witness 2 heard two to three (2-3) gunshots but could not see which officer fired. Witness 2 stated she was “freaked out by it all.” Following the shots being fired, the officers instructed Witness 2 and Witness 3 to leave, and they complied. (Atts. 23, 49).

In a **statement** with IPRA on 18 October 2013, **Witness 3**, who is the boyfriend of Witness 2, provided an account of the events similar to that provided by Witness 2. Witness 3 described his attempts to calm Subject 1 down throughout the incident. Witness 3 stated that during his attempts to calm Subject 1 down, Subject 1 left the living room area, returned with a “lil switchblade” in his left hand, and stated words to the effect of, “This is what’s real.”⁷ Subject 1 went to the kitchen and returned with a large white-handled cooking knife in his right hand.⁸ Subject 1 sat on the couch and stabbed at it with the large kitchen knife. According to Witness 3, Subject 1 opened the door with the two (2) knives in his hands at which time the uniformed officers drew their weapons. The officers, a male and female, repeatedly ordered Subject 1 to drop the knives but he did not comply. Witness 3 heard both officers order Witness 3 to drop his knives. At this point, Subject 1 antagonized and taunted the officers by stating, “I’m going to take two (2) steps and you guys aren’t going to shoot me.” Subject 1 was ordered not to take the steps, but did not comply. Subject 1 took the first step and the officers pointed their weapons at Subject 1 and told him to stop moving. As Subject 1 took the second step with the knives raised up in a stabbing motion and pointing towards the officers, the female officer discharged her weapon. Witness 3, who was behind the kitchen table at the time, was able to observe Subject 1 advance on the officers. Witness 3 described Subject 1 as being in close range to the officers. Witness 3, who heard two to three (2-3) gun shots, did not see the shots, muzzle flash and/or smoke of any kind. Witness 3 did not know if the male officer also fired his weapon. Witness 3 then observed Subject 1 fall to the ground. The female officer instructed Witness 3 and Witness 2 to leave the residence and they complied. Witness 3 stated that Subject 1 had been drinking on the date of this incident and estimated that Subject 1 consumed five to six (5-6) cans of Miller Lite beer. Witness 3 was not afraid of Subject 1 despite observing him choke Witness 1. According to Witness 3, while he did not believe that Subject 1 would harm him or Witness 2, based on Subject 1’ antagonizing the officers, while in such close

6. According to Witness 2, at this time the blades of the knives were pointed up, not at the officers.

7 Witness 3 described the pocket knife as four to five (4-5) inches in length.

8. Witness 3 described the large kitchen knife as being approximately one (1) foot in length.

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proximity to them, he did believe that Subject 1 would stab the officers when he took the steps. (Atts. 31, 32, 50).

In a **statement** with IPRA, **Witness 4**, who resides at XXXX South Halsted Street, on the 2nd floor, related that, on the date of this incident, he called 911 after he heard his neighbors engaged in an argument. Witness 4 heard the verbal argument between Witness 1, Subject 1 and Witness 2, and what he described as “troubling things” (i.e., kicking the walls), which is why he placed his initial call to 911.

Witness 4 heard the door open twice, but does not know who entered or exited. Witness 4 then heard Witness 1 return, knock on the door to her residence, and begin speaking to Subject 1 in a much different tone than Witness 4 had heard prior. Witness 4 then heard the door open but could not provide any details as to who opened the door or who entered. Witness 4 then heard a scream and four (4) shots. Witness 4 called 911 a second time. The police arrived on scene and Witness 4 provided a statement to the police. (Atts. 27, 51).

A **canvass** conducted in the vicinity of the incident did not produce any additional witnesses to the police-involved shooting⁹ (Atts. 12, 13).

The related **Department Reports** including General Offense Case and Supplementary Reports HW497-234 (Aggravated Assault to Police Officer), HW XXX-XXX (Aggravated Criminal Sexual Assault) and HX XXX-XXX (Justifiable Homicide) provide accounts of the incident which are consistent with the facts contained in the Summary of the Incident. (Atts. 8, 14, 17, 18, 63-66, 73).

The **Tactical Response Reports (TRR)** of Officers A and B were obtained and incorporated into this report.¹⁰ Officers A and B identified Subject 1 as a Passive Resister (failing to follow verbal direction), who escalated to an Active Resister (lunging at officers) who rose to the levels of Assailant: Assault (imminent threat of battery), Assailant: Battery (attack with weapon), and Assailant: Deadly Force (weapon). Officers A and B utilized member presence and verbal commands when they initially encountered Subject 1. After Subject 1 escalated to the level of an Assailant: Deadly Force, Officer A discharged her firearm, a 45 caliber Smith and Wesson Model 5943, five (5) times. (Atts. 4-7).

The **Office of Emergency Management and Communications (OEMC)** recorded transmissions and related Event Queries were obtained and incorporated into this investigation. **Event XXXXXXXXXXXX** documented that on 18 October 2013 at 0110 hours, Witness 1 contacted OEMC and reported that she was at the location of XXXX South Halsted, #XX, and involved in a dispute with her boyfriend, who was repeatedly hitting her. In the remarks section, there is no indication of guns or other weapons present. **Event XXXXXXXXXXXX** documented that on 18 October 2013, at 0112 hours, Witness 4 contacted OEMC and reported that a couple was arguing at the location of XXXX South Halsted, #XX. In the remarks section, it is indicated that Witness 4 would show the police the

9. Members of the Detective Division secured footage from Taqueria XXX XXXXXXX, located at XXXX South Halsted, which was inventoried (Inv. No. XXXXXXXX). The footage does not capture any of the events that occurred near the doorway or inside the residence of XXXX South Halsted Street. (Atts. 36, 37, 40).

10. The Officer’s Battery Reports of Officers A and B were also obtained and incorporated into this investigation.

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apartment and instructions to enter through the side door next to the Mexican Restaurant.¹¹ (Atts. 9-11, 44-47, 60).

The **CPD Forensic Services Division Records** (Crime Scene Processing Reports, Video of Scene, Evidence Technician Photographic Records and Inventory Sheets) were obtained and incorporated into this investigation. Two (2) knives: (1) knife with black and chrome handle (4 inch blade) and one (1) large butcher knife with a white handle (12 inch blade) were recovered at the scene and inventoried (Inv. XXXXXXXXX/XXXXXXX).



Officer A's firearm was recovered and inventoried for further forensic testing. (Atts. 41-43, 54, 55, 70).

Illinois State Police (ISP) Division of Forensic Services Reports documented the examination of recovered ballistic evidence in comparison to the firearm belonging to Officer A. The ISP report

11. The OEMC Event Query XXXXXXXXXX identified Beat XXXX (Officers C #XXXXXX and D #XXXXX) as being on scene during the course of this incident.

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indicated that the recovered Winchester 9mm Luger +P fired cartridge cases and fired bullets were fired from Officer A's weapon (Smith & Wesson, model 5934, 9mm). Officer A's weapon was test fired and found to be in firing condition. (Att. 68).

The **Chicago Fire Department Ambulance Report** documents that Subject 1 was found unresponsive and dead on arrival. (Att. 16).

The **Cook County Medical Examiner Postmortem Report** (213 OCT 2013) documents Subject 1's cause of death as multiple gunshot wounds. Subject 1 sustained four (4) through and through gunshot wounds (GSW): one (1) to the anterior chest, involving the heart and left lung, one (1) to the anteromedial right thigh and two (2) to the anteromedial left leg. The point of entry for all GSWs was front of body. Toxicology reports confirm that Subject 1's blood alcohol content (BAC) was .114g/DL and was negative for the presence of bath salts/stimulants/designer drugs.¹² The Cook County Medical Examiner Postmortem Photographs depict the gunshot wounds as documented in the Postmortem Report. (Atts. 70-72).

A **Service Calls Search** was conducted for the location of XXXX South Halsted for the timeframe of 01 January 2012 through 18 October 2013. Including this incident, there were twelve calls for service, which correspond to four separate domestic disturbance incidents involving Witness 1 and Subject 1. In two of the prior domestic disturbances, calls were made to OEMC by tenants of the location of XXXX South Halsted Street, who reported arguing from the second floor rear (the Witness 1/Subject 1 residence). On 09 August 2013, a call was placed to OEMC requesting EMS to the location of XXXX South Halsted Street for a female with a head injury.¹³

In a statement with IPRA, on 20 July 2016, **Witness Officer C #XXXXXX** provided his account of this incident. On the date and time of this incident, Officers C and D responded to a call of a domestic disturbance at the location of XXXX South Halsted. Upon inquiry, Officer C recalled that he had previously been at the location of XXXX South Halsted.¹⁴ Officer C recalled that his prior encounter at the location (XXXX South Halsted) was related to a Domestic Disturbance as well. Officer C stated that he and Officer D arrived before the assigned unit (Officers A and B). Officer C, who recalled being at the address from the prior Domestic incident, exited his vehicle and spoke with the female caller (Witness 1). Witness 1 informed Officers C and D that while she was trying to sleep

12. Chief Medical Examiner Ponni Arukumar, M.D., who conducted the Postmortem Examination of Subject 1, stated that based on Subject 1's behavior (i.e. engaging in domestic violence and approaching the police with a knife in each hand) she opted to send Subject 1's blood for additional toxicology testing.

13. Based on Witness 1's statement to IPRA, it is reasonable to conclude that this is the physical altercation during which she was injured which she reported.

14. Officer C was shown Event Inquiry XXXXXXXXXXXX from 24 July 2013, which identified his unit as being present at the location of XXXX South Halsted relative to a Domestic Disturbance. Officer C heard arguing from the apartment and repeatedly knocked on the door, receiving no response. As Officer C was leaving, Subject 1, who Officer C described as large in stature, came to the door, swearing and screaming, "What are you doing at my door. Why are you here? Why are you bothering me? Get off my porch." Officer C took Subject 1's actions as intimidating and informed him if he did not cease his actions he would be arrested for making a disturbance. While Officer C did not see Witness 1 on the date of 24 July 2013, he heard her speaking from inside the residence.

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her fiancée (Subject 1) fought with her, forced himself on her and attempted to have sex with her. Witness 1 fought Subject 1 off with the assistance of her daughter (Witness 2) and her daughter's boyfriend (Witness 3). Witness 1 was able to exit the residence and call 911. Witness 1 informed Officer C that Subject 1 was still upstairs in the apartment with Witness 2 and Witness 3 and that Subject 1 might have weapons. At some point, while Witness 1 was explaining what occurred to Officers C and D, Officers A and B arrived on the scene. Officer C and D had a brief discussion with Officers A and B and informed them of the information that Witness 1 provided. Officer C also informed Officers A and B that he had been at the location prior and of his previous interaction with Subject 1, who he described as aggressive and being intimidating in nature. Officer C did not recall if Witness 1 had any visible injuries and stated that if he observed any injuries he would have called for an ambulance.

Officers A and B went up the narrow staircase to the second floor rear apartment followed by Officers C and D. Officer C estimated that the width of each stair was approximately two to two and a half feet. According to Officer C, while it would have been possible for two officers to be on the same stair, it would have been tight and the officers would have been shoulder to shoulder. Witness 1, who was initially behind Officers C and D, went to the locked door and called for Witness 2 to open the door. The door opened and Witness 1 screamed "he's got a knife," and ran back down the stairs. Officers A and B drew their weapons and ordered Subject 1 to put the knife down. Officer C was approximately five (5) steps or eight (8) feet from where Officers A and B were on the landing. Officer C had an unobstructed view of Officers A and B but could not see Subject 1. Upon hearing Officers A and B state words to the effect of put down the knife, Officer C drew his weapon, and requested an officer with a taser to the location via radio. Officer C stated that he called for a taser in an attempt to use a non-lethal alternative to subdue Subject 1.¹⁵ Officer C reported during this time Officer D was behind him and several stairs down from where he was positioned, ensuring Witness 1 did not become involve herself in the incident.

Officer C, who remained on the middle landing for the duration of this incident, heard the verbal exchanges between Subject 1 and Officers A and B. Officer C stated he repeatedly heard Officers A and B order Subject 1 to drop the knives and heard Subject 1 repeatedly refuse to do so. Officer C had a clear and unobstructed view of Officers A and B but was unable to see Subject 1. Officer C stated that the officers on the scene were aware that Witness 1's daughter (Witness 2) and daughter's boyfriend (Witness 3) were inside the apartment because Witness 1 had so informed them during their initial conversation with her upon arrival. Officer C recalled hearing Subject 1 ask Officers A and B what would occur if he advanced and took a step towards the officers, but could not see Subject 1 from his location on the stairs. It was at this point that Officer C observed Officer A discharge her weapon five times. Officer C notified OEMC that shots were fired. Once Witness 2 and Witness 3 exited the apartment, Officer C entered the apartment. Officer C recalled observing the large kitchen knife on the floor near the entrance and Subject 1 laying seven to eight feet from the entryway with a knife in his left hand. Officer C removed the knife from Subject 1's hand, placed it on the table, handcuffed Subject 1 and called for EMS. After Officer C provided his account of the incident to IPRA, he was

15. Officer C reported that the officer(s) with the taser(s) arrived post incident.

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provided the opportunity to review Detective Supplementary Report HWXXXXXXX relative to the information he provided to the Detectives post incident. Officer C found it to be a true and accurate account of the information he provided. (Atts. 88, 91)

In his statement to Detectives post incident, Officer C reported that one month prior he responded to a disturbance call at the Witness 1/Subject 1 residence. Officer C described Subject 1 as a large statured Hispanic male, who was aggressive and threatening during their interaction. When Officers C and D arrived at the Witness 1/Subject 1 residence, Witness 1 was hysterically crying and visibly shaking. Witness 1 reported that she was beaten, choked and sexually assaulted in the bedroom by her fiancée, Subject 1. Witness 1 reported that Subject 1 had knives in the apartment and that she was in fear that Subject 1 would kill her. Witness 1 was worried that Subject 1 would hurt and/or kill her daughter, Witness 2, and her daughter's boyfriend, Witness 3.

In a statement with IPRA on 20 July 2016, **Witness Officer D #XXXXXX**, provided his account of this incident. Officer D stated that, to the best of his recollection, 18 October 2013 was his first time to the location of XXXX South Halsted. When Officers C and D arrived at the location of XXXX South Halsted on the date of this incident, they were met by the caller (Witness 1) who informed them she had a fight with her boyfriend/fiancée. While Witness 1 was informing Officers C and D what occurred, the assigned officers (A and B) arrived on scene. Witness 1 repeated the information she initially provided to Officers C and D to all four (4) officers. After a brief exchange of information, the officers relocated to the back of the location to access the stairs to the second floor. Officer D, who was on the stairs behind Officer C, estimated his distance from Officers A and B and Witness 1 as ten (10) feet without a clear view into the residence.

From his location on the stairs, Officer D heard Officers A and B state words to the effect of "Drop the knife, drop the knife, step back," multiple times. During this time, Officer C went on the radio and requested an officer with a taser to the location. Officer D opined that Officer C requested a taser as he felt the need to have a taser available because Subject 1 had knives in his hands. Officer D recalled instructing Witness 1 to go back to the street and wait for the additional units to arrive so she could direct them to the rear of the building. As Officer D began to walk back up the stairs, he heard shots fired but did not know who fired the shots and/or the specific number of shots he heard. Officer D recalled that Officer C made the notification of shots fired and requested an ambulance. At this time, Witness 1 attempted to run up the stairs and the two teenagers that were in the apartment (Witness 2 and Witness 3) exited the apartment. Officer D escorted Witness 2, Witness 3 and Witness 1 down the stairs and remained with the group for the duration of his time at the location. Officer D stated that he was not closer than ten (10) feet from the location where Officers A and B were and he never entered the residence. After Officer D provided his account of the incident to IPRA, he was provided the opportunity to review Detective Supplementary Report HWXXXXXXX relative to the information he provided to the Detectives post incident. Officer D found it to be a true and accurate account of the information he provided. (Atts. 89, 90).

In his statement to Detectives post incident, Officer D reported that prior to Officers A, B, C, and himself going up to the Witness 1/Subject 1 residence, Officer C informed them of his prior

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interaction with Subject 1, who he described as aggressive and threatening. Officer D also detailed the conversation that he heard between Subject 1 and Officers A and B. Officer D heard the officers repeatedly tell Subject 1 to drop the knives. Officer D also heard the officers state, "Don't do this. It's not worth it," to which Subject 1 responded, "I don't give a fuck what you say bitch. Go ahead and shoot me."

In a **statement** with IPRA, on 18 October 2013, **Witness Officer B, #XXXXXX**, provided his account of this incident. Officer B stated that on the date and time of this incident, he and Officer A were working Beat XXXX, in uniform, driving in a marked Department vehicle. Officers A and B received and responded to a Domestic Disturbance call at the location of XXXX South Halsted. Officers A and B arrived on scene and observed the female victim, Witness 1 speaking with Beat XXX (Officers C and D). Officers A and B spoke with Witness 1, who was under duress and crying, and informed officers she wanted the subject, Subject 1, out of the house. Officer C informed Officers A and B to be careful as he (Officer C) had prior interaction with Subject 1, who he described as aggressive and violent. Officers A, B, C, and D accompanied Witness 1 to the rear of her second floor residence. Witness 1 knocked on the door and yelled Subject 1's name. Subject 1 opened the door with two (2) knives in his hands. Witness 1 screamed, "He's got knives!" at which time Officers A and B drew their respective weapons. The officers remained outside the residence, on the landing, and repeatedly ordered Subject 1 to drop the knives, and he did not comply.¹⁶ Officer B described the landing as being very small and approximately three to four (3-4) to five to six (5-6) feet in width. Officer B estimated that he and Officer A were approximately five to six (5-6) feet from Subject 1 at this time and that Witness 2 and Witness 3 were directly behind Subject 1. According to Officer B, Subject 1 responded to the officers by stating words to the effect of, "I don't give a fuck, you're gonna either shoot me or kill me. I'm not dropping these knives." Officer B replied, "I don't want to do this in front of your kids," to which Subject 1 replied, "Those aren't my kids, those are her kids." Officer B asked Subject 1 if he wanted to die. Subject 1 told Officers A and B, "I'm going to take two (2) steps," and lunged towards Officer B with knives raised, closing the distance between them. Officer A discharged her weapon. Officer B did not discharge his weapon, as Officer A, Witness 2, and Witness 3 were in his line of fire. Officer B described that Officer A, who is left hand dominant, had a straight line of sight for Subject 1. According to Officer B, Officer A reacted quicker than he did. Officer B did not recall the specific number of shots Officer A fired. Officers A and B repeatedly ordered Subject 1 to drop the knives and he did not comply. Officer C, who was outside the residence when Officer A fired her weapon, entered the residence, and handcuffed Subject 1. Officer B did not know how the second knife came to be on the kitchen table. Officer B did not touch either of the knives. One of the officers on the scene requested an ambulance for Subject 1. Officer B reported that neither he nor Officer A ever entered the residence and that, at the time Subject 1 lunged towards himself and Officer A, he was at the threshold of the doorway. (Atts. 35, 53).

In his statement to the Detectives post incident, Officer B reported that from his location at the threshold of door, he observed Witness 2 and Witness 3 crouched behind Subject 1, holding each other, crying and telling Subject 1 to stop. Officer B described Subject 1 as enraged as he began swinging and

16. Officer B described one of the knives as a kitchen butcher knife with a 10-12 inch blade.

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thrusting the knives in a stabbing motion. Officer B estimated that when Subject 1 advanced on Officer A and himself, the distance was within two to three (2-3) feet. Officer B further reported that despite being in fear of his partner and himself being stabbed and/or attacked by Subject 1, he did not fire because he feared striking Officer A and/or Witness 2 and Witness 3.

In a **statement** with IPRA, **Involved Officer A, #XXXXXX**, provided her account of the incident.¹⁷ Upon Officer A's arrival at the location, she and her partner, Officer B spoke briefly with Witness 1. As Officers A, B, C, and D approached the gangway; Officer C reported that he had been to the residence prior and that Subject 1 was large in stature and aggressive. Officers A and B acknowledged the information provided by Officer C and proceeded to the apartment. Officer A, who remained on the landing with Officer B during this incident, described the landing of the residence as very small and confined. Officer A estimated the distance between Subject 1, Officer B and herself as less than five (5) feet. According to Officer A, when Subject 1 raised the two (2) knives with blades pointed towards her and Officer B, she was immediately in fear of her life. Officers A and B repeatedly ordered Subject 1 to drop the knives, but he did not comply. Both Officers A and B attempted to reason with Subject 1, but were unsuccessful. When Officer A told Subject 1, "Think of your family," Subject 1 replied, "I don't give a fuck about my family, you fucking bitch." Officer A described observing the rage in Subject 1's face and believing the Subject 1 was going to kill her. Officer B and Subject 1 engaged in a conversation during which Officer B told Subject 1 not to take another step. When Subject 1, who had the knives at shoulder height in an attack position, took another step and closed the distance between him and the officers, Officer A discharged her weapon. According to Officer A, she had a clear and unobstructed view of Subject 1 when she discharged her weapon five (5) times. Officer A knew she discharged her weapon five (5) times because she counted each trigger pull. Officer A did not observe Witness 2 and Witness 3 in the apartment from where she was positioned. However, when Witness 1 initially knocked on the door and called out to Subject 1, she mentioned her child as being inside the apartment. Officer A, who is left hand dominant for her firearm, stated she and Officer B were standing side by side, and he was to her left when she discharged her weapon. Officer A repeatedly ordered Subject 1 to drop the knives as she discharged her weapon, but Subject 1 did not comply. An ambulance was called for Subject 1. Officer A was not injured as a result of the incident. (Atts. 39, 52).

In her statement to the Detectives post incident, Officer A stated that when the door to the Witness 1/Subject 1 residence opened and she initially observed Subject 1 with a knife in each hand and a "crazed" look on his face. Officer A reported that when Officer B was attempting to deescalate the situation and get Subject 1 to drop the knives, she told Subject 1 to think of his family. Subject 1 responded "I don't give a fuck about what you say weto (Spanish slang for "White") bitch." Subject 1 then stated, "You're going to have to kill me," and stepped towards Officer A.

17. Officer A's post firearm discharge alcohol and drug testing results were negative for the presence of alcohol and/or drugs. (Att. 59).

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CONCLUSION AND FINDING:

Based on the totality of the circumstances, the use of deadly force by Officer A was in compliance with both Illinois State Law and Chicago Police Department Directives. According to General Order 03-02-03, III:

- 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.

There is more than a preponderance of evidence showing that Officer A was reasonable in his belief that Subject 1 presented an imminent threat of death or bodily injury to the officers and the other individuals present. When Officer A approached the Witness 1/Subject 1 residence he was aware that: (1) Subject 1 had or was in the process of making a violent attack against Witness 1; (2) there were two other individuals inside the residence; and (3) there had been prior incidents involving Subject 1's aggressive and violent actions towards the police. When Subject 1 opened the door to the residence wielding two knives and making verbal threats of assault towards the officers, Officer A attempted to use member presence and verbal commands to diffuse the situation. Subject 1, who was non-compliant, then escalated the situation by advancing towards Officers A and B with knives raised, stating words to the effect of "You'll have to shoot me." Despite Officer A's numerous verbal commands, Subject 1 did not cease his aggressive taunting actions towards Officers A and B. When Subject 1 advanced on Officers A and B, and closed the distance to less than five (5) feet with the knife blades pointed in the officers' direction, Officer A fearing for her safety, the safety of her partner and the civilians on scene, discharged her weapon. Officer A's multiple attempts to use the lowest force options available at the time were insufficient and futile to resolve the situation. None of the officers on scene were equipped with a taser. The rapidly unfolding events did not afford Officer A the time to wait for the requested officer armed with a taser to arrive and attempt to diffuse the situation. It was for the safety of herself, her partner and the two other individuals in the residence that she discharged her weapon. Officer A's use of deadly force was necessary to prevent death or great bodily harm to herself, her partner, Witness 2 and Witness 3.

Based on the totality of the facts and circumstances, Officer A's training and experience would lead her to reasonably believe that Subject 1 posed an immediate threat of death and great bodily harm to the safety of all involved. This investigation determined that the use of deadly force by **Officer A** is

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therefore objectively reasonable WITHIN the Chicago Police Department's Rules and Regulations, specifically General Orders 03-02-01 (The Use of Force Model) and 03-02-03 (Deadly Force).