

INDEPENDENT POLICE REVIEW AUTHORITY

LOG #1072342 / U# 14-39

**INVESTIGATION**

**NUMBER:** Log #1072342/U #14-039

**INVOLVED**

**OFFICER:** “Officer A” (Chicago Police Officer); Male/White; 32 years old; On-duty; Civilian dress; Year of Appointment – 2011

**OFFICER’S**

**WEAPON:** Glock, Inc.; Model G17; semi-automatic pistol; 9mm; Winchester 9mm Luger +P ammunition; 14 live rounds recovered from firearm; weapon capacity of 17 rounds; fired three times

**OFFICER’S**

**INJURIES:** None Reported.

**SUBJECT:** “Subject 1;” Male/Black; 32 years old

**SUBJECT’S**

**INJURIES:** Three gunshot wounds to the right upper abdomen; non-fatal; treated at Stroger Hospital.

**SUBJECT’S**

**WEAPON:** Manufacturer: Weihrauch, Hermann; Arminius; Model HW 38; .38 Revolver with 4” barrel;

**LOCATION:** XXXX S. Morgan Street (residential porch)

**DATE/TIME:** 01 November 2014, 2022 hours

**TIME OF IPRA**

**NOTIFICATION:** 2037 hours

**TIME OF IPRA**

**RESPONSE:** 2150 hours

**SUMMARY OF INCIDENT:**

On 01 November 2014, at approximately 2016 hours, Officer A and his partner, Officer B, were on routine patrol with their Tactical Team in the XXX<sup>th</sup> District, when they received a radio call regarding a man with a gun at XXXX S. Morgan Street. Upon arrival, the two officers heard a male voice in distress coming from the rear of the building and went in that direction through a vacant lot on the south side of the building. When the two officers reached the rear yard, Officer B observed the subject, now known as Subject 1, inside the rear yard holding a firearm in his hand. Both officers scaled a six-foot fence to exit the vacant lot and heard the rear door of the building slam shut. The officers entered the rear yard through an open gate. Officer A approached the rear door, kicked it open, and observed Subject 1 walking down on a staircase between the 1st and

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2nd floor. The officers observed Subject 1 holding a firearm with a white cloth wrapped around the hand with the firearm. When the officers ordered Subject 1 to drop the firearm, he complied by laying the firearm at his feet where he stood on the first-floor landing. The officers repeated verbal commands directing Subject 1 to turn around and away from the firearm. The officers observed Subject 1 rocking his body back and forth for several seconds. Subject 1 then bent over and reached down toward the firearm. Officer A, in fear for his safety as well as that of Officer B, discharged his firearm three times, striking Subject 1 in the abdomen. Subject 1 then moved backward on the landing as Officer A took him to the ground and attempted to handcuff him. Officer C #XXXX and his partner, Officer D #XXXX, who had also responded to the call, entered the enclosed porch through the rear door. Officer C assisted Officer A in handcuffing Subject 1, who was still struggling, while Officer D recovered the firearm from the landing. Subject 1 was transported to Stroger Hospital via Ambulance #36.

**INVESTIGATION:**

**The IPRA Preliminary Report** essentially provided the same information as reported in the Introduction section of this report. (Att. #4)

**Attempts to Contact** the subject, **Subject 1**, by letter and personal visits were unsuccessful. (Att. #'s 12, 15, 53, 71, 74, 81, 92)

**Attempts to Contact** Civilian 1 and Civilian 2, Subject 1's parents who resided on the second floor, by letters and personal visit were unsuccessful. (Att. #'s 53, 74, 81, 88)

In a **To/From Report**, the Reporting Investigator indicated that he spoke via telephone to **Witness 1**, who resided on the first-floor apartment. Witness 1 stated that she had already provided a statement to the detectives and did not wish to be involved any further. (Att. #83)

In a **To/From Report**, the Reporting Investigator indicated that he spoke via telephone to **Civilian 3**, who resided in the basement apartment. Civilian 3 stated that he and his wife, **Civilian 4**, did not observe the officer-involved shooting, but heard about four quick shots fired coming from the alley. Civilian 3 added that they did not hear anything prior to the shots fired and only exited their apartment later when the police had arrived. Civilian 3 was told by his upstairs neighbors that their son was "drunk" and had a gun, and was shot by the police in the back porch. (Att. #85)

A **canvass** was conducted by IPRA Investigators in an attempt to locate additional witnesses and/or evidence. The canvass did not yield any witnesses or additional information. (Att. #10)

According to **Department Reports under RD# XXXXXXXX, including the Arrest Report, Original Case Incident Report and Detective Supplementary**

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**Reports,** Subject 1 was arrested on 01 November 2014, at 2020 hours, at XXXX S. Morgan Street, and charged with two counts of Aggravated Assault with a firearm. The arresting officers were Officers A and B, who responded to a person with a gun call at the above location. Upon arrival, Officer B observed Subject 1 standing in the rear yard holding a dark-colored handgun. The officers ordered Subject 1 to drop the weapon and Subject 1 complied. Subject 1 then attempted to grab the firearm from the floor of the rear porch. Fearing for his life and his partner's life, Officer A discharged his firearm, striking Subject 1. The officers then placed Subject 1 in custody. Officer D, an assisting officer, recovered Subject 1's firearm and turned it over to the crime lab. Subject 1 was then transported to Stroger Hospital for treatment. Subject 1 was charged with two counts of aggravated assault on an officer with a firearm.

Witness 1 stated that she heard someone kicking at the door out back and heard a male voice yell out, "It's going to go down tonight, motherfuckers!." Witness 1 recognized the voice to be that of her upstairs neighbors' son, now known as Subject 1. Witness 1 then heard one shot fired and she dropped to the floor to take cover. Witness 1 called 911 and while she was on the telephone with the operator, she heard three additional gun shots fired. A few minutes later, Witness 1 heard someone on her back porch and heard a male voice<sup>1</sup> yell out, "Stop, put the gun down!" Witness 1 then heard Subject 1 yell out, "It's gonna go down tonight, motherfuckers!" The male voice told Subject 1, "Put the gun down!" Witness 1 then heard three gun shots, followed by scuffling on her back porch. Witness 1 stated that she did not observe any part of the incident and that she remained inside her apartment during the entire incident.

On 02 November 2014, at approximately 2320 hours, at Stroger Hospital, Subject 1 provided a statement to the responding detective, in which he stated that he was in the back of the building at XXXX S. Morgan, smoking marijuana laced with PCP Subject 1 was armed with a revolver that he had purchased two years earlier. Subject 1 stated that he had an ongoing "beef" with "Bingo," a local drug dealer. According to Subject 1, that evening, two of Bingo's associates entered the backyard and fired gunshots at him. In response, Subject 1 yelled out, "Let's get this done tonight," and fired all six rounds in his gun. When the police arrived, Subject 1 was on the back porch. According to the detective summary, Subject 1 admitted that, when the police officers told him to drop his gun, he ignored them because he was angry. Subject 1 stated that he had his gun in his hand when the police shot him and that he should have dropped it when the police told him to. (Att. #'s 14, 18, 54, 67-69)

According to the **Tactical Response Report (TRR)** completed by **Officer A**, Subject 1 did not follow verbal direction, stiffened, pulled away and used force likely to cause death or great bodily harm by attempting to grab his firearm, a .38 caliber black revolver. Officer A responded with member presence, verbal commands, and the discharge of his firearm. Officer A discharged his firearm three times from a distance of 5 to 10 feet. In addition, Officer A employed wristlock, armbar and take down/emergency techniques to place Subject 1 into custody. (Att. #6)

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<sup>1</sup> Witness 1 attributed the voice to someone she believed to be Caucasian.

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According to the **Officer's Battery Report (OBR) of Officer A**, Officer A was in citizen's dress responding to a man with a gun, now known as Subject 1, on 01 November 2014, at approximately 2022 hours, in the residential porch/hallway of XXXX S. Morgan Street. Subject 1 pointed a weapon in the direction of Officer A. Officer A did not sustain any injuries. It was noted that Subject 1's actions were drug-related. (Att. #7)

According to the **Tactical Response Report (TRR)** completed by **Officer B**, Subject 1 did not follow verbal direction, stiffened, pulled away and used force likely to cause death or great bodily harm by attempting to grab his firearm, a .38 caliber black revolver. Officer B responded with member presence, verbal commands and take down/emergency handcuffing. Officer B did not discharge his firearm. (Att. #16)

According to the **Officer's Battery Report (OBR) of Officer B**, Officer B was in citizen's dress responding to a man with a gun, now known as Subject 1, on 01 November 2014, at approximately 2022 hours, in the residential porch/hallway of XXXX S. Morgan Street. Subject 1 pointed a weapon in the direction of Officer B. Officer B did not sustain any injuries. It was noted that Subject 1's actions were drug related. (Att. #17)

**Evidence Technician photographs** depict the shooting scene; three shell casings, and overall photographs of Officers A and B. A diagram of the shooting scene depicts the locations of the fired cartridge cases. (Att. #'s 48-52, 89)

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:

- On 01 November 2014, at 20:14:46 hours, a 911 caller<sup>2</sup> reported shots fired. The conversation between the caller and the OEMC dispatcher was as follows:

Dispatcher:	Chicago Emergency, Hendricks.
Caller:	Yes, I'd like to have the police to come out to 58, uh, 39 S. Morgan. There's somebody banging on the back door and screaming and yelling and kicking the back door, and I don't know who it is.
Dispatcher:	OK. So this a house?
Caller:	Yes.
Dispatcher:	OK. Did you want to leave your name?

<sup>2</sup> Although the female caller did not identify herself during the telephone call, the CPD Event Query for Event # 1430515345 indicates that the call originated from telephone number XXX-XXX-XXXX. The investigation revealed that the above number belongs to the witness, Witness 1, who resides at the first floor apartment at XXXX S. Morgan St.

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Caller:	Actually, shots just went off.
Dispatcher:	Oh, God. How many shots did you hear?
Caller:	Just two now. Three.
Dispatcher:	Is that person still banging?
Caller:	Four.
Dispatcher:	Is that person still knocking?
Caller:	No.
Dispatcher:	OK. We're going to go ahead and get the police over there. Thank you, ma'am.
Caller:	(inaudible)

- On 01 November 2014, at 20:14:23 hours, a second female caller, who identified herself as Civilian 2, requested the police at the above address about a male individual who's "acting crazy" and may be on some "PCP stuff." When the dispatcher asked her how she knew this individual, Civilian 2 responded that it was her son, and added that he had a gun and he was shooting it outside. Civilian 2 further stated that her son, Subject 1, was thirty two years old, had dreads and wore a gray jacket.
- On 01 November 2014, at 20:17:21 hours, the OEMC dispatcher informed units in the XXX<sup>th</sup> District of shots fired at XXXX S. Morgan. The dispatcher further informed units that the caller stated that a person was frantically pounding on the back door and that four shots were fired. The dispatcher added that, also at XXXX S. Morgan, a caller reported that the "son is high, outside with a gun." The dispatcher provided the information of the suspect as "Subject 1, 32 years of age, gray jacket." Beats XXXX and XXXX responded to the call.
- On 01 November 2014, at 20:20:19 hours, an unidentified officer reported over the air, "he's inside, squad, he had a gun in his hands, and (inaudible) walked upstairs."<sup>3</sup>
- On 01 November 2014, at 20:20:38 hours, the same unidentified officer reported over the air, "we're in the back, we got him in the back."
- On 01 November 2014, at 20:20:42 hours, an unidentified officer shouted, "Shots fired!" An unknown female voice stated, "Shots fired at the police,

<sup>3</sup> The CPD Event Query for Event # 1430515345 indicates that Beat XXXX, assigned to Officers C and D, communicated this statement and the statement about shots fired; however, based on their statements to IPRA, Officers C and D were not in a position to observe Subject 1. As a result, the Reporting Investigator believes that the above statements were made by Beat XXXX, assigned to Officers A and B.

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shots fired!” When the dispatcher inquired whether shots were fired by or at the police, an unidentified male voice reported that the shots were fired at the police; the dispatcher then issued a 10-1 for the address.

- On 01 November 2014, at 20:21:14 hours, an unidentified officer stated, “We need officers at the back.”
- On 01 November 2014, at 20:21:30 hours, an unidentified officer can be heard stating, “Put your hands up!” and thirty seconds later, an unidentified officer reported “shot over here, get the ambulance rolling.” Other unidentified officers asked if the offender or the officer were shot and an unidentified officer responded that the “offender is shot, the officers are OK.” Beat XXX later reported over the air the name, star number and beat number of Officer A as the involved officer. (Att. #'s 38, 56-63)

The **Chicago Fire Department Ambulance Report** documented that paramedics located a black male, now known as Subject 1, lying on the back porch at XXXX S. Morgan Street. It appeared that Subject 1 had suffered three gunshot wounds to his abdomen. The report indicated that Subject 1 was in Chicago Police custody with a strong “etoh”<sup>4</sup> odor and with slurred speech. It was further noted that Subject 1 refused to answer any questions regarding himself, his past medical history, or events leading up to the incident. Subject 1 was transported to Stroger Hospital. (Att. #20)

**Medical Records** from **Stroger Hospital** documented that Subject 1 sustained three gunshot wounds to his right upper abdomen. During surgery, bullet fragments were found lodged inside Subject 1. Hospital staff indicated that Subject 1 appeared intoxicated with alcohol or drugs, and added that he was yelling, combative, and refused to provide any prior medical history and how he got shot. (Att. #72)

The **CPD Inventory List Report** documented that Subject 1’s revolver and discharged cartridges from the revolver cylinder were recovered from Officer D. In addition, a pack of cigarillos containing four tin foil packets of brown substance, suspect PCP, was also recovered from Subject 1’s clothing and inventoried, along with other items belonging to Subject 1. (Att. #'s 21-35)

**Illinois State Police Forensic Science Laboratory Reports** document the examination of the recovered ballistic evidence under Inventory numbers 13305503 and 13305607. Officer A’s firearm was test fired and found to be in proper firing condition. Based upon analysis of ISP Reports and Forensic Reports, it was determined that Officer A fired three times. The shell casings and fired bullets were compared to Officer A’s firearm and found to match his weapon.

Subject 1’s firearm and six discharged cartridge cases, which were inventoried under Inventory number 13305496, were examined and revealed no latent impressions

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<sup>4</sup> “ETOH” is a medical term for alcohol. It is an acronym for ethyl alcohol.

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suitable for comparison. The firearm was test fired and found to be operable. (Att. #'s 75-76, 90)

**Court Documents** for criminal case XXXXXXXXXXXX indicate that on 04 May 2015, Subject 1 pled guilty to two felony counts of aggravated assault of a police officer with a weapon and sentenced to one year in prison. (Att. #78)

In a **statement to IPRA** on 02 November 2014, the **witness, Officer D**, stated that on 01 November 2014, he was assigned to the XXX<sup>th</sup> District Tactical Team, Beat XXXX, conducting regular patrol. Officer D was the passenger in an unmarked police vehicle driven by his partner, Officer C. Both officers were in civilian dress. Officer D stated that they received a radio call of a person with a gun at XXXX S. Morgan. Officer D acknowledged the call and the officers drove to that address. Upon arrival, they observed Officers A and B arriving in their vehicle. Officers A and B exited their vehicle and went toward the back of the building. Officer D stated he did not know why Officers A and B went to the back of the building. Officer D observed an older black male lean out of the second-floor window and yell that his son has a gun. Officer D then went over the air and stated that the subject, now known as Subject 1, was armed. Officer D walked through a vacant lot to the south of the building and heard either Officer A or Officer B state that Subject 1, had gone back inside the building. Officer D was only able to hear but not see Officer A or Officer B due to the lack of artificial lighting in the back yard. Officer D stated that he thought that Subject 1 would run out of the front of the building and ran back to the front sidewalk in order to intercept Subject 1. Officer D observed Officer C draw his firearm and, as a result, Officer D drew his firearm for the first time. Officer D stated that he believed that Officer C heard somebody coming out through the north gangway of the building. When nobody appeared, Officer D again walked through the vacant lot, heading to the back of the building. Officer D then heard three or four shots fired. Officer D jumped over the fence between the two properties and ran to the back doorway. He then observed Officer A attempting to handcuff Subject 1, who was lying face down on the floor on the first landing. Officer D asked Officer A and Officer B, who was on the staircase leading to the second floor, if they were all right and they replied "yes." Officer D then holstered his firearm. Officer D observed a firearm approximately two to three feet away from Subject 1. Because Subject 1 was resisting, Officer D picked up the firearm and held on to it. Officer C arrived to the back and proceeded to assist Officer A and Officer B, who had come down the stairs, in handcuffing Subject 1. Officer D observed blood on the floor but did not observe Subject 1's injuries; he then went over the radio and requested an ambulance. Officer D stated that he also observed a white shirt on the floor next to Subject 1; Officer D believed that it belonged to Subject 1 because Subject 1 was not wearing a shirt. (Att. # 46, 65)

In a **statement to IPRA** on 02 November 2014, the **witness, Officer C**, stated that he was the driver of an unmarked police vehicle as a member of a Tactical Team. His partner was Officer D and both officers were in civilian dress. Officer C stated that he heard a call over the radio about a person with a gun at XXXX S. Morgan. Officer C also heard over the radio that a father had called about his son who was in the rear of the residence and had a gun. When he arrived, Officer C observed Officers A and B drive up

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at about the same time, exit their vehicle and run eastbound to the back of the building. Officer C did not recall if the two officers ran through the alley or the vacant lot next to the building. As Officers C and D stood in front of the building, a black male leaned out of the second floor window and yelled out at the officers that his son was in the back of the building and that he had a gun. Officer C then removed his firearm from its holster and held it in his right hand; Officer D went over the radio and advised all responding units that there is a man with a gun. Officer C suggested to his partner that they remain on the front sidewalk. Officer C stated that in order to maintain a visual with the front door and the south side of the building, in case something was thrown out from the side of the building, he walked southbound on the sidewalk, reached the alley and headed eastbound. Officer C then heard yelling and three to four shots fired. Officer C described the shots as fired in rapid succession. Officer C did not remember what was being yelled, and did not recognize the voice but identified it as a male voice. Officer C ran to the east alley of Morgan, turned north, reached the building at XXXX S. Morgan and entered the rear door of the enclosed porch. Officer C first observed a blue steel revolver with a brown handle lying on the first floor landing at the top of the staircase. Officer C then observed a black male, now known as Subject 1, "hunched over" against a wall and saw blood on the floor. Officer A was holding one of Subject 1's arms and was trying to put the arm behind Subject 1's back. Officer C stated that Subject 1 was flailing his arm and Officer A was struggling to place his handcuffs on Subject 1's hand. Officer C ran up the stairs and placed one handcuff on Subject 1's arm. Officer C stated that Subject 1 was repeating, "I'm shot six times." Officer B then appeared and positioned himself between Officers A and C and together they were able to place two sets of handcuffs on Subject 1's hands. Officer C did not recall where Officer B came from. Once the officers placed handcuffs on Subject 1, Officer C turned around to make sure the gun was still on the floor. Officer C discovered that the gun was no longer there and found out that Officer D had arrived, had picked up the firearm, and had called for an ambulance. Officer C later learned that Officer A was the individual who had discharged his firearm. When Officer C was asked whether he gave any verbal commands to Subject 1, Officer C replied that he stated, "Put your hands behind your back." (Att. #'s 47, 64)

In a **statement to IPRA** on 02 November 2014, the **witness, Officer B**, stated that he was assigned to Beat XXXX as a member of a Tactical Team on patrol in the XXX<sup>th</sup> District. Officer B was the passenger in an unmarked police vehicle driven by his partner, Officer A. The officers received a call over the radio of a person with a gun at XXXX S. Morgan Street. Officer B communicated over the air that he and Officer A were responding to the location. When they arrived, Officer A stopped their vehicle just south of the above location, in front of a vacant lot. Officer B exited the vehicle and heard a male voice yelling from the rear of the above location. Officer B did not recall whether the male individual was saying any words. Officer B ran eastbound through the vacant lot to take cover behind an empty metal shipping container. On his way to the container, Officer B observed a black male in the back yard of XXXX S. Morgan. The black male, now known as Subject 1, was facing the building and yelling; Officer B stated that he did not hear what Subject 1 was yelling. Officer B stated that there was artificial lighting coming from the windows of the enclosed rear porch and he observed Subject 1 holding a gun in his hand. Officer B did not recall in which hand Subject 1 was

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holding the gun. Officer B described the gun as a black revolver. When Officer B reached the metal container, he was joined by Officer A and they decided not to jump the fence directly into the back yard where Subject 1 was located. Instead, the two officers proceeded eastbound and jumped a fence into the east alley of Morgan. As they were jumping the fence, Officer B heard the back door to the enclosed back porch slam shut. The officers observed an open gate to the property of XXXX S. Morgan and Officer B ran toward a big tree in the back yard and took cover behind it. Officer B heard screaming from two different people inside the enclosed porch and he and Officer A ran to the building. Officer A then kicked in the door and both officers looked inside the enclosed porch. Officer B observed Subject 1's legs through the stairs as Subject 1 was descending from the second floor to the first floor landing. Subject 1 had a white rag or shirt over one of his hands; Officer B did not recall which hand. Subject 1 appeared to be muttering something, but Officer B could not understand what Subject 1 was saying. When Subject 1 reached the first floor landing, he turned to his left and faced the officers, who were at the bottom of the staircase by the rear door of the enclosed porch. Officer B observed the pistol in the hand with the white rag or shirt and immediately yelled at Subject 1 to "drop the pistol." Subject 1 dropped the white rag or shirt from his hand and immediately placed the firearm on the floor between his feet. Officer B ordered Subject 1 to turn around. Subject 1 did not comply and instead began rocking his body back and forth and looking at the pistol, then at the officers, then back at the pistol. Officer B stated:

Page 24, Line 26

A: He [Subject 1] makes a motion down like he's goin' to retrieve this pistol. And at that time my partner fired three to four rounds.

Page 29, Line 20

Q: Was he able to, when he was bending over to, to what it looked like was he tryin' to, did it look like he was tryin' to pick up the gun again or?

A: Absolutely.

Q: When he motioned down?

A: Yes.

Officer B stated that he did not discharge his firearm because Officer A was almost in front of him. Officer B estimated that less than one minute elapsed between the time that Officer B gave verbal commands to Subject 1 to turn around to the time that Officer A discharged his firearm. Subject 1 took a few steps backward to the wall and the officers ascended the stairs. Officer A grabbed Subject 1's left arm and Officer B was about to grab the right arm. Officer B then heard screaming from the second floor and ran up the staircase to the second floor where he observed the residents coming out of their apartment. Officer B told them to stay inside and went back downstairs. Officer B then reholstered his firearm and assisted Officer A and Officer C, who had by now arrived at the scene, to place handcuffs on Subject 1. Officer B described Subject 1 as "resisting" by not placing his arms behind his back; according to Officer B, the officers used two sets of handcuffs to place Subject 1 in custody. Officer B observed blood around Subject 1's chest area and on the floor. Officer B stated that Officer D picked up

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Subject 1's firearm and held onto it. Officer B then exited the porch area and waited for the ambulance and supervisors to arrive. (Att. #'s 45, 66)

In a **statement to IPRA** on 03 November 2014, **the involved officer, Officer A**, stated that he was assigned to Beat XXXX and was on routine patrol with his partner, Officer B. The officers were dressed in civilian clothes and driving an unmarked Chevrolet. The officers received a radio call regarding a man with a gun at XXXX S. Morgan Street when they were approximately two blocks west of that location. Officer A drove to XXXX S. Morgan Street and, upon arrival, observed another tactical unit in a second unmarked vehicle also stopping at that location. Officers A and B exited their vehicle and heard an unknown male yelling in "some sort of distressed voice" from the rear of the building. Officer A stated that he could not tell if the yelling was "out of anger or fear." Officers A and B proceeded eastbound through a vacant lot that was adjacent to the building. Officer B observed an individual and told Officer A that the individual had a gun. Officer A did not observe the individual at this time. The two officers jumped over a fence and entered the property of XXXX S. Morgan through an open gate. Officer B took cover behind a tree and Officer A ran to the building where he took cover against the wall. Officer A heard more yelling coming from inside the building and heard a voice state, "he's gotta gun, he gotta gun." Officer A could not tell if it was a male or female voice. Officer A then kicked the door open, looked inside and observed a staircase to his left leading to the first floor landing and another staircase leading to the second floor. Officer A remained mostly outside the door in order to maintain cover. Officer B ran from the tree and entered the building and stood to the right of Officer A. The two officers then observed the offender, now known as Subject 1, coming down the staircase from the second floor. Subject 1 turned and faced the officers, and Officer B began repeatedly yelling at him to "drop the gun." Officer A observed credit cards or identification cards in Subject 1's right hand. Subject 1 then bent forward slowly and Officer A observed a black revolver in Subject 1's left hand. Subject 1 turned the revolver's muzzle toward his right and placed on the floor between his feet. Subject 1 then stood upright and Officer B began yelling for Subject 1 to turn around. Officer A explained that his partner's commands to Subject 1 were appropriate because the officers wanted him to face away from the threat, as opposed to ordering him to get down or come down the stairs. According to Officer A, Officer B repeated very loudly the command to turn around between six to ten times. Officer A stated that Subject 1 was mumbling something incoherently and described him as "very stocky" and shirtless. Officer A continued to point his firearm at Subject 1, as Officer B kept yelling for Subject 1 to turn around. Subject 1 began to rock his upper body back and forth while his feet stood still. Officer A observed that Subject 1's eyes were glazed over in a manner that the officer interpreted that Subject 1 may have been intoxicated or high on "some sorta drug." Subject 1 began to stare at the officers, then at the revolver on the floor, and again back at the officers. Officer A stated:

Page 20, Line 21

A: Um he did that three or four times, looked down and then looked back at us. Um it seemed to me that the manner in which he was lookin' down and looking at us was as if he was makin' some sort of a decision. And then my partner was still

yelling “turn around, turn around.” He never once seemed that he was gonna obey that command. He bent forward perhaps got to maybe a 45 degree angle at his upper body and then I don’t remember which arm but he reached down toward the gun to grab it and then I opened fire. I fired three times, three, four times.

Page 22, Line 10

Q: About how much time between the time that he put it down till the time that he went to reach for it was there?

A: I would say closer to 10 seconds. Possibly between 10 and 15 seconds.

Officer A described his discharge as “rapid fire” and stated that Subject 1 was between five to ten feet away from him. Officer A stopped firing when he observed blood come out of Subject 1’s abdomen and Subject 1 stumbled backwards to the wall of the building. The officer then communicated over his radio that shots had been fired by the police. Officer A walked up the stairs and picked up the revolver, because he wanted to keep control of that weapon since Subject 1 was still on his feet. Officer A decided that Subject 1 was incapacitated enough to the point where the officer could attempt to affect the arrest. As a result, Officer A placed the revolver back down on the landing, grabbed Subject 1’s left arm and tried to place it behind his back. Officer A then instructed his partner to “clear upstairs” because Subject 1 had come downstairs from the second floor. Officer B went upstairs while Officer A struggled to place Subject 1’s arm behind his back. Officer C arrived and began to struggle with Subject 1’s right arm. Officer B came back downstairs, and the three officers used two pairs of handcuffs to detain Subject 1 and then placed him on his chest. Officer C asked, “Where’s the gun?” and Officer D replied that he had recovered the revolver. Officer A observed Officer D holding the revolver in a white cloth. Officer A then exited the building and remained in the yard as additional units responded and the scene was secured. Finally, Officer A stated:

Page 31, Line 21

Q: At the time that you discharge your weapon did you have any other available options when it came to stopping the threat to you or your partner?

A: No.

Q: And why do say no?

A: Because he was goin’ for a gun which led me to believe that this, that the offender I was in fear for my life and my partner’s life.

(Att. #’s 9, 55)

## CONCLUSION

As outlined by the Chicago Police Department Use of Force of Model; the Illinois State statute; and the Chicago Police Department’s General Order 03-02-03, Section III:

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- 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 or she will endanger human life or inflict great bodily harm unless arrested without delay.

Based on the totality of circumstances, Officer A was reasonable in his belief that Subject 1 represented a threat of death or bodily harm to himself and his partner. Therefore, Officer A's use of deadly force against Subject 1 was within Chicago Police Department policy.

The events leading up to the shooting illustrate that Subject 1 was acting erratically, which may have been the result of narcotics intoxication. At 20:14:46 hours, Witness 1 called 911 to report a disturbance and, while on the telephone with the 911 operator, noted that she just heard four shots fired outside. Civilian 2, Offender/Victim Subject 1's mother, also called 911. During her call, which was made at 20:14:23 hours, Civilian 2 stated that her son was high on PCP and was shooting his gun. Subject 1, in his statement to the detectives, admitted that he had been smoking marijuana laced with PCP in the back of his parents' building. This prior erratic behavior by Subject 1 is consistent with that observed by the officers, lending credibility to their descriptions of his lack of cooperation. Having been apprised of the information provided by the 911 callers, the responding officers, including Officer A, were aware that Subject 1 represented a potential serious threat because: (1) he was armed, and (2) he was intoxicated on a narcotic that is generally known to produce erratic behavior.<sup>5</sup>

According to Officer A and B, when they encountered Subject 1 in the stairwell, he was acting strangely: he began rocking his upper body and looking back and forth between the gun and the officers. According to Officer A, Subject 1 was also visibly intoxicated, which also made it reasonable to believe that Subject 1 might act erratically, and therefore, represent a threat. The fact that a brown substance that appeared to

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<sup>5</sup> <https://www.drugs.com/illicit/pcp.html>

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detectives to be PCP also supports the Officer's observation that Subject 1 appeared intoxicated, which is corroborated by Subject 1's mother's initial statements in her 911 call. Based on these events, it was reasonable for Officer A to fear that, when Subject 1 reached down to pick up the firearm he had discharged only moments earlier, he might also discharge the firearm at him or his partner.

As outlined above, Subject 1 pled guilty to aggravated assault to a police officer with a weapon, thereby admitting that his actions placed the officer in fear of battery.<sup>6</sup>

Based on the totality of the circumstances, **Officer A's use of deadly force** against Subject 1 was objectively reasonable, and, therefore, **within the policy** of the Chicago Police Department.

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<sup>6</sup> A review of the electronic records in criminal case number XXXXXXXXXXXX indicates that Subject 1 pleaded guilty to two counts of aggravated assault to a peace officer with a weapon under 720 ILCS 5/12-2(B)(4.1), relative to this incident. Aggravated assault to a peace officer with a weapon is committed when an individual uses a deadly weapon to place a peace officer in fear of receiving bodily harm. By pleading guilty to this offense, Subject 1 admitted to using his gun to place Officers A and B in fear of receiving bodily harm.