

TO: Chief Administrator
Independent Police Review Authority

FROM: Investigator

DATE: April 14, 2017

REFERENCE: Log#1078530, U#15-26 - RD# HY-543950

INCIDENT

DATE/TIME: December 20, 2015 at approximately 10:34 am.

LOCATION: XXXX N. XXXXXXXX Avenue, Chicago, Illinois XXXXX

INVOLVED

OFFICER: Officer A; Chicago Police Officer, Star #9123; assigned to Unit XXX; black female; employee #XXXXXX; DOB: XX XXX XXXX; DOA: XX XXX XXXX; off-duty; civilian clothes.

INVOLVED

OFFICER'S

WEAPON:

Ruger, Model LCP, .380 caliber semi-automatic pistol; Serial #37631272; city registration #R030551S; FOID #35100955; .380 caliber X-X ammunition; 6-round capacity magazine (total weapon capacity 6+1); total of 5 cartridges and 1 casing recovered; TRR indicates 1 round was fired.

INVOLVED

OFFICER'S

INJURIES:

Minor injuries (see Officer's Battery Report)

SUBJECT:

Subject A, black male; DOB: XX XXX XXXX; IR# XXXXXX, XXXX N. Octavia Ave.

SUBJECT'S

WEAPON:

Butcher knife

SUBJECT'S

INJURIES:

A gunshot wound to the right shoulder with bullet lodged; admitted to XX Hospital, Park Ridge.

SUMMARY OF INCIDENT

On December 20, 2015, at approximately 10:34 a.m., Officer A shot her husband, Subject A, once in the right shoulder after he came at her with a butcher knife in their bedroom. According to Officer A, in the early morning hours Subject A returned home after a night of drinking and needed Officer A to let him in the house because she recently changed the locks on him because of issues of infidelity and abuse. After she let Subject A in, he began arguing with her. Before he fell asleep, Subject A kicked and slapped Officer A. When he woke up hours later, Subject A struck her again and choked her. Subject A then retrieved a butcher knife from the kitchen and threatened to kill Officer A and her two adult sons, who were upstairs. Fearing for her and her sons' lives, Officer A shot Subject A with a gun she retrieved from her bedroom closet as he moved in her direction with the knife stating that he was going to harm her sons. He sustained a gunshot wound to his right shoulder. Officer A called 911 to report the shooting and informed the 911 operator that she was going to take Subject A to the hospital. The 911 operator instructed her to remain at the scene to wait for the paramedics. Officer A and Subject A were in their backyard preparing to go to the hospital when police arrived on the scene. Subject A told responding officers and the paramedics that the shooting was an accident. In response to what she heard Subject A say and while still at the scene, Officer A immediately denied Subject A's account that it was an accident.

INVESTIGATION

The **IPRA Preliminary Investigation Report** and **CPD Major Incident Notification Report** contain information related to the Summary of Incident above. (Atts. 4, 141)

The **Arrest Report** of **Subject A** dated 20 December 2015 indicates that he was charged with one count of aggravated domestic battery and one count of aggravated assault with a deadly weapon, both charges domestic related. The narrative of the report summarizes the incident in which Officer A was in fear for her safety and that of her sons when Subject A confronted her with a butcher knife and threatened to do great bodily harm to them. Subject A was treated at XX Hospital and in police custody. No drugs or alcohol were noted. (Att. 6)

Officer A's Tactical Response Report (TRR) documents that she fired her handgun once at Subject A. The section entitled Reason for Use of Force indicates under Subject's Actions Assaultant: Deadly Force uses force likely to cause death or great bodily harm and weapon. (Att. 7)

Officer A's Officer Battery Report documents that the type of activity was disturbance — domestic, the manner of attack was stabbed/cut (including actual attempt), struck/blunt force (including actual attempt), and other (including verbal threats), and the type of weapon/threat was hands/fists, verbal threat (assault), and knife/other cutting instrument. The report further documents that

the type of injury to officer is non-fatal — minor injury (bruises/swelling/minor abrasions) and the offender was intoxicated and threatening the officer and members of the household. (Att. 8)

The Fire Department Ambulance Report for Subject A indicates that Ambulance XX responded to a gunshot victim incident at XXXX N. Octavia Ave. and patient Subject A told paramedics that his wife, a CPD officer, was "putting up" a .380 caliber pistol when it accidentally discharged once approximately five feet from Subject A, striking him in his upper bicep area. Subject A sustained an entrance wound but no exit wound. No drugs or alcohol were noted. (Att. 41)

Event Queries from the **Office of Emergency Management and Communications** and the **Radio Transmission Summary** indicate that Officer A called 911 to report that her husband had been shot. Officer A was told to wait for CFD when she told the operator she planned to take her husband to the hospital herself.

The **OEMC and PCAD reports** were collected and made part of this case file. An analysis of the **call log, 911 transmissions, and radio transmissions** shows that:

- Between 10:35:24 and 10:36:29 hours:
 - Officer A, while off-duty, requested police come to XXXX N. Octavia and said she shot her husband in the arm after he threatened her with a butcher knife.
 - Beat XXXX called a 10-1 and said an off-duty officer shot her husband in the arm at XXXX N. Octavia.

- At 10:44:33 hours Beat XXXX said disregard the 10-1, a 51 year old male was shot in his right shoulder, and both parties said it was an accident¹. (Atts. 102-119)

IPRA responded to **XX Hospital** on **20 December 2015**, and a nurse said that Subject A sustained a gunshot wound to his right shoulder. Subject A refused to be interviewed by IPRA. (Atts. 11, 19)

In an **interview with IPRA** on August 15, 2016, **Officer A** said her husband Subject A returned home highly intoxicated around 5:00 a.m. on December 20, 2015 and asked Officer A to let him in the house. After Officer A unlocked the door to the house and Subject A entered their bedroom, Subject A slapped Officer A's buttocks and then complained that it was embarrassing that he did not have keys to his own house. He then slapped Officer A twice on the face. Subject A then went to sleep and awoke around 9:00 a.m. at the foot of their bed. At that point, he began to kick Officer A's buttocks and the back of her thigh while saying "bitch I oughta kick your pussy up your throat." Officer A got out of bed and grabbed a pamphlet with prayers from

Officer B, working Beat XXXX, subsequently said in his statement to IPRA and in police reports that his statement over the police radio was incorrect and Officer A never said the shooting was an accident.

their dining room and then returned to the bedroom. According to Officer A, she thought "maybe this a good time just start prayin'" and she proceeded to read prayers out loud to Subject A. Officer A slapped the pamphlet out of her hand, stated "bitch I don't wanna hear that right now," pulled her to bed, and started to choke her. Officer A initially resisted but then stopped. Subject A stopped choking Officer A, and Officer A then stood back by the bedroom closet. Subject A left the bedroom. After he left, Officer A heard him in the kitchen. When he returned, Subject A had a large knife in his hand. Subject A told her that she was making a lot of noise and that he was waiting for her sons to come into the room. Subject A told Officer A that he was going to "kick their ass" if her sons came down to their room. Subject A then started walking toward her, and Officer A grabbed her cellphone off the nightstand and attempted to videotape the incident, but she failed to get it to record so she started taking pictures. Subject A slapped the phone out of her hand and then he walked toward the sliding door and said he was waiting for her sons to come down from their bedrooms. Subject A then said "You know what, today is the day. I'm gonna fuck y'all up. I'm killin' you mother fuckers. And I'm gonna get these damn boys." Subject A then began moving in Officer A's direction while holding the knife. Officer A raised a .380 Ruger handgun that she retrieved from her dresser drawer in the closet when Subject A walked to the sliding doors. After directing him to put the knife down, Officer A fired one shot, which struck him in the arm.

Officer A recounted that there were previous incidents of domestic violence in which Subject A physically attacked her, including one in which he punched her in the head. Officer A's two adult sons later had a physical altercation with Subject A when they confronted him over that incident. (Atts. 86, 95)

In an **interview with IPRA** on January 22, 2016, **Sgt. A** said she responded to the location of the incident on December 20, 2015 and observed a white male uniformed police sergeant from an outside unit already on the scene. Officer A and Subject A were exiting the back door of the home. Officer A appeared upset. Sgt. A noticed that Officer A had car keys in her hand and Subject A had a jacket over one of his shoulders. Subject A told Sgt. A that Officer A accidentally shot him in the shoulder. Subject A continued, telling Sgt. A that Officer A was putting her gun away and it fell. Officer A interrupted and told Subject A to stop and to tell the truth. Officer A then told Sgt. A that she shot Subject A. At that point, Sgt. A decided to separate Officer A and Subject A. She directed Officer A to go inside the house, while Subject A waited outside for an ambulance with the other officers on the scene. Sgt. A went inside the home through the backdoor with Officer C and noticed blood on the floor of the back porch and kitchen. Sgt. A told Officer A that she needed the gun and for Officer A to explain exactly what happened.

Officer A informed Sgt. A that Subject A came home intoxicated in the early morning hours and attempted to argue with her. A few hours later after they woke up, Subject A

attempted to argue with Officer A again. During that exchange, Subject A grabbed a large knife from the kitchen, which he refused to put down when she asked. Subject A told Officer A that he was going to stab her adult children and any grandchildren who were in the house. Officer A then told Sgt. A that she began to physically fight with Subject A, which resulted in him knocking her to the bed and choking her. She asked him to stop. He said after he let go of her he was going to put his shoes on and stab everybody and leave. At this point, Officer A went to a den or another bedroom directly behind the bedroom and removed her gun from her backpack. She returned to the bedroom to again ask Subject A not to do this. Subject A responded by getting up and rushing in Officer A's direction, at which point she fired one shot; they were approximately five to six feet apart when she fired. Officer A told Sgt. A that Subject A had been unfaithful and when he was drunk they would argue. Sgt. A believed that Subject A was intoxicated when Sgt. A encountered him in the backyard on the day of the incident because she smelled the odor of alcohol on him and stated that he had a "sluggishness to 'em." Officer A appeared sober. Officer C recovered the weapon and removed its magazine. Officer A provided the shell casing from her pocket, which Officer A said she picked up from the floor of the bedroom or hallway leading to the bedroom. Officer A said she picked up the spent casing so it would not be lost. Sgt. A thought that Officer A might have been standing in the doorway of the bedroom to prevent Subject A from leaving when she shot Subject A. An adult friend, Officer A's adult son, and a grandchild were in the house, but they told Sgt. A that they did not witness the incident.

Officer A showed Sgt. A a video that Officer A took of Subject A just prior to the shooting. In the video, Subject A held a large knife. Officer A told Sgt. A that she pleaded with him to put it down. Subject A is seen and heard asking Officer A why she was video recording him. The video stopped when it appeared that Subject A knocked the phone out of Officer A's hand. Officer A related to Sgt. A that she told Subject A that she was recording him so he could see how he acts when he has been drinking.

Officer A told Sgt. A that she moved the knife and placed it in the dish drainer near the sink in the kitchen. Officer A said she put the knife there to keep it away from the kids. Officer C retrieved the knife from the kitchen with a paper towel and showed it to Sgt. A. There was no blood on it and it appeared as if it had been rinsed off. Members of CPD recovered and placed the knife, gun, magazine, and fired cartridge casing on the dining room table.

Sgt. A observed redness on the front of Officer A's neck where Officer A said Subject A choked her. Sgt. A also observed a substantial pool of blood in the bedroom on the opposite end of the room from the location of the doorway.

Sgt. A noted that Officer A immediately corrected Subject A when he claimed that the shooting was an accident. Officer A also signed a consent-to-search form that allowed CPD to extract the video from her phone. (Atts. 87, 94)

In an **interview with IPRA** on February 19, 2016, **Officer C** said she arrived at the location of the incident on December 20, 2015 and proceeded to the rear of the address. The information she received prior to arriving was that an off-duty officer shot her husband.

When she arrived, Officer A and Subject A were in the backyard of the residence. Subject A was leaning against a fence with his jacket over his arm. Officer A was holding onto Subject A. Officer A said that they were on their way to the hospital. Officer C noticed a drop or two of blood directly beneath Subject A. Subject A told Officer C that Officer A shot him by accident.

Officer C and Sgt. A, who was also present, then followed Officer A through the back door of the home to retrieve the gun she used in shooting Subject A. Once inside, Officer A led them to a closet in an office/den type room and removed a smaller, off-duty gun. Officer C received the gun from Officer A and removed the magazine from the weapon and the round in the chamber to make it safe before she turned it, along with a single shell casing that Officer A gave her, over to Sgt. A. Sgt. A placed the recovered items on the dining room table. Officer C then asked Officer A whether she had the 13-inch butcher knife that was reportedly used as Subject A's weapon. Officer A replied by informing Officer C that it was in the kitchen and then pointed to a dish rack near the kitchen sink. Officer C retrieved the knife from the dish rack using a paper towel. Officer C placed it on the dining room table along with the other evidence items.

Officer C learned that the incident stemmed from a domestic-related altercation that occurred after Subject A returned home late and ended with Officer A shooting Subject A in one of the bedrooms because he came at her with a knife. When Officer C examined the bedroom where Subject A was shot, she observed blood on the floor, next to a chair and near the foot of the bed. It was on the far end of the room across from the bedroom door. Officer C used Officer A's cellphone to make police notifications because Officer C's cellphone battery died.² Officer C told IPRA that she was vaguely aware that Officer A video recorded or took photos of the incident on that cellphone. Officer C did not see any of the video or photos taken by Officer A. (Atts. 131, 132)

In an **interview with IPRA** on March 18, 2016, **Officer D** said he responded to a 10-1/shots fired call on December 20, 2015 that involved an off-duty officer. After he arrived at the location of the incident, Officer D joined Officer B in the backyard area of that location where they observed Subject A with an apparent puncture/gunshot wound to his right shoulder. Officer D observed blood coming from a hole in Subject A's right tricep area. Officer D overheard Subject A tell the paramedics that prepared him for transport to the hospital that his injury was the result of an accidental shooting. Officer D never went inside the home prior to going to the hospital. Officer B told Officer D that Subject A was under

² Allegations related to the potential mishandling of evidence in this matter are being investigated under Log 1084841.

arrest. Officer D followed the ambulance that transported Subject A to the hospital and then guarded Subject A until Officer D was relieved of that duty by another officer. Officer D noted that he completed Subject A's arrest report.

Officer D saw Officer A standing in the back yard area of the residence that day. Officer D recognized Officer A because he previously worked with her in the 25th District. (Atts. 137, 138)

In an **interview with IPRA** on January 7, 2016, **Officer B** said that he responded to a 10-1 call on December 20, 2015 at the location of XXXX N. Octavia Avenue regarding an off-duty officer who shot her husband. When he arrived at the location, Officer B walked down the gangway to the backyard area of the residence, where he saw Subject A with a jacket draped over his right shoulder and blood dripping onto the concrete from under the jacket. Officer A was also present in the backyard area. Subject A stated that he was shot and that Officer A did not mean to do it. Subject A also stated this it was an accident. However, Officer C told Officer B that it was not an accident, so Officer B concluded that Subject A needed to be handcuffed and arrested. After Subject A was placed into an ambulance, Officer B entered the home through the back door. Inside the home, Officer B observed blood on the floor. Most of it was in a bedroom where the shooting allegedly took place. Officer B also saw a long knife and Officer A's semi-auto black handgun on the dining room table. Officer B noted that he picked up and cleared the gun and made a slide lock with paper. Sgt. A and Officer C may have touched the weapon before Officer B.³

Officer B announced over the police radio that both involved parties (Subject A and Officer A) said the shooting was an accident. Officer B made that announcement to slow down the response of other officers. Officer B noted that he was trying to prevent officers from getting hurt in their efforts to rush to the scene. Officer B said that his announcement was a mistake. Officer B stated that he spoke to Subject A first upon arriving on the scene, and Subject A informed him that it was an accident. Officer B never heard Officer A state that it was an accident; she stated that Subject A was approaching her with a knife and threatening her and her sons, so she discharged her weapon. (Atts. 69, 83)

In an **interview with IPRA** on December 20, 2015, the day of the incident, Officer A's ten-year-old grandson, **Civilian 1**, in the presence of his mother Civilian 2, stated that, on the day of the incident, he was asleep on the couch in the first floor living room when he heard a loud noise that woke him up. When Civilian 1 got up from the couch, he saw blood on the floor near the television in Officer A's bedroom and on the kitchen floor. He asked Officer A what happened, and Officer A said she would tell him later. Civilian 1 also saw that Subject A was bleeding and

³ Allegations related to the potential mishandling of evidence in this matter are being investigated under Log 1084841

that he had blood on his chest area. He heard Officer A say she was going to call the hospital. (Atts. 16, 17)

In an **interview with IPRA** on December 20, 2015, **Civilian 2** stated that she went to the home of her mother after receiving a phone call from Officer A's home phone number. During that call, Civilian 2 overheard her son Civilian 1, who she knew was sleeping over at Officer A's home, say to Civilian 2's brother, Civilian 3, that Civilian 1 heard a loud pop and then "grandma" told him to go upstairs. At that point, the phone disconnected. Civilian 2 does not know who placed the call. Civilian 2 responded by phoning her brother Civilian 4, who she believed was also at Officer A's home, to see what she could learn from him. Civilian 4 told Civilian 2 that he saw blood downstairs and wondered if someone had been shot. After hearing that information, Civilian 2 traveled to Officer A's home. When she arrived, Civilian 2 noticed that the left side of Officer A's jaw appeared swollen and that Officer A was shaking. Officer A also repeatedly stated that Officer A never had to shoot anyone before. As Civilian 2 waited in Officer A's house while the police processed the scene, a female officer told Civilian 2 that Subject A attacked Officer A and she defended herself.

Civilian 2 confirmed that there has been a history of domestic abuse by Subject A toward Officer A. Civilian 2 recounted an instance the previous summer when Ms. Carter saw a knot on Officer A's head that, according to Officer A, was the result of Subject A shoving her to the ground and striking her on her head when Officer A confronted Subject A and his girlfriend. Ms. Carter also stated that Subject A abused alcohol and was verbally and physically abusive toward Officer A. Ms. Carter was aware of instances when Subject A called Officer A "bitch" and the "devil." (Att. 30, 31)

In an **interview with IPRA** on December 20, 2015, **Arthur Carter** stated that he was upstairs in bed at 5:00 or 6:00 a.m. when he heard a loud thud or thumping noise directly beneath him. It sounded as if something fell in his mother's, Officer A's, living room. Later that same morning around 10:00, Civilian 3 heard his nephew Civilian 1 come upstairs and tell Civilian 3's older brother, Civilian 4, that he heard a popping sound. As soon as Civilian 3 heard what Civilian 1 said, he got out of bed and walked to where Civilian 4 and Civilian 1 were located. Civilian 1 then said that the popping sound involved Officer A and Subject A. Civilian 3 and Civilian 4 responded by going downstairs where they encountered blood on the floor that led out to the backyard. When they reached the backyard, Civilian 3 saw Subject A surrounded by four or five police officers. Subject A appeared to be wearing a bandage. Civilian 3 also saw Officer A inside the house talking to two female officers. A male officer told Civilian 3 that Subject A came at Officer A with a knife and she shot Subject A. The male officer also told Civilian 3 that Officer A recorded it. (Atts. 25, 26, 84)

In an **interview with IPRA** on December 20, 2015, **Civilian 4** stated that he was cooking breakfast upstairs at approximately 10:30 a.m. when his nephew Civilian 1 ran upstairs and said that he just heard a "pop" sound. Civilian 1 looked like he was going to cry. Civilian 4 asked Civilian 1 if it had anything to do with Civilian 1's grandparents, Officer A and Subject A, to which Civilian 1 said that it did. Civilian 4 responded by going downstairs, where he saw blood near the back door leading outside. Civilian 4 saw Subject A outside with police officers and paramedics. Civilian 4 heard Subject A say, "It was a mistake." Civilian 4 also saw Officer A, who told him to go upstairs. She was talking to police. At some point later, Civilian 4 went back downstairs and noticed that Officer A's jaw appeared swollen.

Prior to Civilian 1 running upstairs to tell Civilian 4 about the sound, Civilian 4 went downstairs at approximately 9:45 a.m. to check on his nephew. While downstairs, he saw Civilian 1 asleep on the living room couch. The television was on in the living room at that point, so Civilian 4 walked over and turned the television off. From where he was standing in the living room when he turned the television off, he had a diagonal view of Officer A's bedroom. The bedroom door was open and from where Civilian 4 stood, he could see Subject A's head. Subject A appeared to be lying across the bed. Deron Carter assumed that Officer A was in the room too, but he did not see her. After that, Civilian 4 walked back upstairs and began to prepare breakfast.

Civilian 4 was aware of an incident in July of 2015 when Subject A punched Officer A during a domestic matter related to Subject A's infidelity. Officer A told Civilian 4 about the incident the day after it occurred and complained to him of suffering from head pain. (Atts. 20, 85)

In a telephone **interview with IPRA** on February 8, 2016, **Civilian 5** stated that he was asleep in the basement level of Officer A's property on December 20, 2015, when a "pop" sound woke him up. After hearing the sound, Craig Wilson went upstairs where he encountered Officer A. Officer A told Civilian 5 that Subject A forced her to shoot him and that she was going to take Subject A to the hospital. (Att. 96)

Cellphone video and photographs from Officer A's cellphone show Subject A in a black tank top and holding a knife. In the video, Subject A walks toward Officer A in a bedroom with the knife in his hand. It ends just as he reaches Officer A. The date and time stamp on the video is December 20, 2015 at 10:33 a.m. In the photographs, Subject A is still holding the knife but is in different positions within the bedroom. The date on the photographs is December 20, 2015, and IMG_0989 is 10:34:17 a.m., IMG_0990 is 10:34:19 a.m., and IMG_0991 is 10:34:37 a.m. (Atts. 43, 44)

In-Car Camera video from Beat XXXX's vehicle shows Beat XXXX responding to the location of incident and parking as other officers in additional police vehicles also arrive at the scene and park at the

location of incident. The video further shows Beat XXXX following CFD Ambulance XX on what is believed to be the route to the hospital. (Atts. 100, 101)

In-Car Camera video from Beat XXXX's vehicle shows Beat 1631 responding to the location of incident and crime scene tape being placed around cars parked in the street in front of the Octavia address. (Att. 120)

The **Crime Scene Processing Report** for **RD HZ-XXXXXX** indicates that the weapon used was recovered from a blue and grey backpack located in the den and placed on the dining room table along with the discharged cartridge case by Officer C. The knife was relocated from the kitchen dish rack to the dining room table also by Officer C. The weapon was also handled by Sgt. A and Officer B. Photographs were taken of Subject A, Officer A, and the clothing they were wearing at the time of the incident. (Att. 46)

Crime Scene Photographs include images of the interior and exterior of the home, the dish drainer near the sink in the kitchen, apparent blood drops on the floor just inside the back door, towels with apparent blood stains on the rear porch, fired casing, gun, removed magazine, unfired round, and knife with paper towel wrapped around handle, backpack in office and gun pouch on desk, apparent blood on floor in bedroom near foot of bed, Subject A in hospital bed with bandaged right upper arm/shoulder, Officer A's clothing she was wearing at time of incident, and Subject A's clothing he was wearing at time of incident with apparent blood stains. (Att. 76)

Medical records for **Subject A** from XX Hospital indicate that Subject A was treated for a gunshot wound to his right shoulder. Laboratory tests show that Subject A's "alcohol, serum" level was 243 mg/dL, indicating a high level of intoxication. (Att. 77)

An **Illinois State Police Forensic Science Laboratory Report** documented the examination of the recovered fired casing, which was found to have been fired from Officer A's weapon. (Atts. 144, 145)

CPD General Offense Case and Detective Supplementary Reports contain consistent information as documented in the summary of incident and other previous sections of this report. The reports document the police investigation of the incident including summaries of the interviews of the Hollands and witnesses, in which Officer A told police that Subject A slapped her when he came home and kicked her multiple times when he woke up. Officer A stated that she shot Subject A after he threatened and approached her with a large butcher knife. The reports further indicate that Subject A had hit Officer A multiple times during the past year which she did not report because she was embarrassed. Officer A's sons gave statements indicating that Subject A had been physically abusive towards Officer A in the past. Subsequent to Subject A being given his Miranda warnings, he stated that he had been out drinking with a male friend and came home around

5:00 a. m. on the date of the incident. He stated that Officer A was awake and let him in the back door. Subject A said they argued and he picked up a knife from the kitchen and put it on their bedroom dresser. Subject A said he was concerned Officer A's sons may attack him again. Subject A then put the knife back in the kitchen. He believed Officer A shot him by accident. After he was shot he went out through the kitchen onto the deck and waited for EMS after Officer A called 911. (Atts. 5, 61, 70, 71, 90)

The **Cook County State's Attorney's Response to IPRA** dated 23 February 2017 indicates that Log# 1078530/U# 15-26 was not accepted for felony prosecution because an objective view of the evidence and law demonstrates that Officer A's conduct was a reasonable use of deadly force under 720 ILCS 5/7-1 and therefore, no criminal charges will be filed in the matter. (Att. 150)

Cook County Clerk of the Circuit Court on-line searchable electronic records (Mainframe) indicate Subject A's criminal case 16CRXXXXXXXX, stemming from this incident, in which he is charged with aggravated domestic battery, is still pending. (Att. 151)

CONCLUSION

Legal Standard

The applicable Chicago Police Department order is General Order 03-02-03, II, which states that 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 deadly weapon or;
 - c. Otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.

In addition, the use of deadly force is codified under 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

"[a] peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He 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..."

Finally, determinations regarding the potential use of excessive force - deadly or not - in the course of an arrest, investigatory stop, or other "seizure" are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). Moreover, the reasonableness calculation "must embody allowance 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." *Graham*, at 396-97. Consequently, "when an 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, the officer can reasonably exercise the use of deadly force." *Muhammed v. City of Chicago*, 316 F.3d 380, 683 (7th Cir. 2002) (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir.1988) (en banc) and omitting emphasis).

In this instance, Officer A's use of deadly force is solely analyzed under whether or not it

was reasonable for her to believe that the use of deadly force was necessary to prevent death or great bodily harm to her or another person.

Officer A reasonably believed that Subject A was a threat because he wielded a knife and threatened physical harm to her and her sons:

It is established by the evidence that Subject A had a large knife in his hand during his confrontation with Officer A. After choking Officer A, Subject A went into their kitchen and retrieved a knife. Subject A brought the knife into the bedroom. In his statement to detectives, Subject A admitted that he brought the knife from the kitchen into the bedroom. Officer A immediately asked what he was doing with the knife. Subject A stated that if he heard her sons come downstairs, he would "kick their ass." He then proceeded to threaten that he would go upstairs and "get these mother fuckers ..." Subject A then came towards Officer A with the knife. According to Officer A, Subject A had the blade raised and pointed outward and was raising the hand the knife was in. Subject A made a series of threats as he came towards Officer A including "I'm gonna fuck y'all up," "I'm killin' you mother fuckers," "I'm gonna get these damn boys," and "I'm getting y'all today." Finally, the video and still images captured by Officer A confirmed that Subject A had the knife in his hand and was in proximity to Officer A.

Subject A's threats to Officer A and her sons' lives, along with the raised knife in his hand as he confronted Officer A, created a situation in which it was reasonable for Officer A to believe that Subject A was a threat to her safety and to that of her sons.

Officer A's belief that Subject A presented a threat of death or great bodily harm to her or others was objectively reasonable under the circumstances:

Based on the totality of the circumstances, it was objectively reasonable for Officer A to believe that Subject A posed an immediate threat to her safety and the safety of her sons. In analyzing the totality of circumstances, IPRA considered Officer A's statement to IPRA, Subject A's statement to detectives, Officer A's cell phone photos and video, and the history of domestic violence perpetrated by Subject A against Officer A.

This incident began when Subject A returned home in the early morning hours after a night of drinking and called Officer A to let him into the house. Subject A entered the home and argued with Officer A about not being able to enter the home. During that argument, Subject A slapped her repeatedly on the buttocks and the face. Subject A eventually fell asleep. Hours later, he awoke and again struck and choked Officer A. Subject A began to threaten her by saying, "bitch I oughta kick your pussy up your throat." After retrieving a large knife from the kitchen, Subject A threatened to kill Officer A and her two adult sons, who were upstairs. According to Officer A, Subject A began to come towards her with the knife in his hand. Subject A had the knife

raised with the blade pointed out. As Subject A walked towards Officer A, she shot Subject A once in his right shoulder with a pistol she retrieved from her closet. When Officer A shot Subject A, he had the knife in his hand. Officer A's cell phone captured a video of Subject A holding the knife and moving towards her in their bedroom. Officer A can be heard telling him to put the knife down.

In addition, according to witnesses and Officer A, Subject A has a history of being physically abusive toward Officer A, particularly while intoxicated. Officer A and her adult sons recounted a history of marital discord due to Subject A's abuse of alcohol, infidelity, and verbal and physical abuse against Officer A. Subject A's abusive behavior toward Officer A also included an incident in which Officer A's sons had a physical altercation with Subject A after they confronted him about punching Officer A. In addition, those at the scene, including responding officers and Officer A's sons, indicated in their statements that they observed signs of injury to Officer A consistent with the earlier fight that she had described, in which Subject A choked, slapped, and kicked Officer A. When taking into consideration the threats made by Subject A while holding the knife, the history of physical abuse, and the abuse Officer A suffered earlier in the evening, it was objectively reasonable for her to believe that Subject A posed an imminent threat of harm.

Finally, Subject A's attempt to diminish the situation and claim that the shooting was an accident is not credible. Officer A never claimed that she accidentally shot Subject A and in fact specifically denied that the shooting was accidental. Officer A was consistent in her statements that she shot Subject A because he was threatening her and coming towards her with the knife raised. Subject A provided only a brief version of events to detectives at the time of incident and declined to speak with IPRA; however, in his statement to detectives, Subject A confirmed that he returned home late, argued with Officer A, and was in possession of the knife found at the scene. Subject A claimed that Officer A was putting the gun away and somehow accidentally shot him in the shoulder. At no point in Officer A's statements to responding officers or to IPRA did she indicate that she was putting her gun away and accidentally discharged the weapon. Further corroborating Officer A's account are the cell phone photos and video, which show Subject A holding the knife in his hands while moving towards her. The cellphone video and images also discredit Subject A's claim that he wanted the knife for protection and placed it on the dresser in the bedroom. Taking into consideration Officer A's consistent statements regarding the events and the captured video and images, Officer A's account is more credible than Subject A's claim that it was an accident.

Because Officer A's belief that Subject A presented an imminent threat to her and her sons was objectively reasonable, Officer A was entitled to use deadly force against Subject A. Therefore, IPRA finds that an officer with similar training and experience as Officer A would reasonably believe that Subject A posed an immediate threat to his or her safety; the use of deadly

force by Officer A was objectively reasonable and within policy as outlined by the Use of Force Model, the Illinois State statute, and the Chicago Police Department's General Order 03-02-03, II.