

TO: Chief Administrator
FROM: Investigator A
DATE: May 10, 2017
REFERENCE: Log# 1069651/U4 14-15 - RD# HXXXXXXXXX

INCIDENT

DATE/TIME: June 6, 2014 at approximately 11:23 p.m.

LOCATION: XXXX South Wallace Street, Chicago, Illinois

INVOLVED

OFFICER #1: Officer A; Chicago Police Officer, Star# XXXX; Unit XXX; white male; employee# XXXXX; DOB: XX XXX XXXX; DOA: XX XXX XXXX; On duty; Plainclothes; Beat# XXXXX.

WEAPON: Glock; Model: 23; .40 Caliber semi-automatic pistol; Serial # KLF375; City Registration #XXXXXXXXXX; FOID #XXXXXXXXXX; 40 Smith & Wesson ammunition; fired thirty-eight (38) times.

INJURIES: None Reported

INVOLVED

OFFICER #2: Officer B; Chicago Police Officer; Star# XXXXX; Unit XXX; white male; Employee# XXXXX; DOB XX XXX XXXX; DOA: XX XXX XXXX; On duty, Plainclothes; Beat# XXXXX.

WEAPON: Glock model 22; .40 caliber; semi-automatic pistol; Serial #LAR179; City Registration #XXXXXXXXXX; FOID #XXXXXXXXXX; Remington 40 Smith & Wesson ammunition; Fired four (4) times

INJURIES: None reported

INVOLVED

OFFICER #3: Officer C; Chicago Police Officer; black female; Star #XXXXXX; Unit XXX; Employee #XXXXXX; DOB: XX XXX XXXX; DOA: XX XXX XXXX; On duty; Plainclothes; Beat# XXXXX

WEAPON: SIG (Swiss Industrial Gesellschaft); Model P226; 9mm; semi-automatic pistol; Serial #U714191; City Registration #XXXXXX FOID# XXXXXXXXX; 9mm Luger +P ammunition; fired seven (7) times.

INJURIES: None reported

INVOLVED

OFFICER #4: Officer D; Chicago Police Officer; Star#XXXXXX; Unit XXX; white male; Employee# XXXXXX; DOB: XX XXX XXXX; DOA: XX XXX XXXX; On duty; Plainclothes; Beat#XXXXXX.

WEAPON: F.I. Industries; Model: P226; 9MM; semi-automatic pistol; Serial# PX19103; City Registration #XXXXXXXXXX; FOID#XXXXXXXXXX; 9mm Luger +P ammunition; fired eleven (11) times.

INJURIES: Shot once in vest, front. Non-fatal, minor injury

INVOLVED

OFFICER #5: Officer E; Chicago Police Officer, Star #XXXXXX; Unit XXX; Hispanic male; Employee #XXXXXX DOB: XX XXX XXXX; DOA: XX XXX XXXX; On duty; Plainclothes; Beat XXXXX.

WEAPON: Glock Model: 21; 45 cal; semi-automatic pistol; Serial #VSE402; City Registration #XXXXXXXXXX; FOID #XXXXXXXXXX; fired thirteen (13) times.

INJURIES: Gunshot wound to right thigh

SUBJECT: Subject 1; black male; DOB: XX XXX XXXX; XXXX South Wallace Street, Chicago, IL; IR #XXXXXXXX; CB #XXXXXXXX

INJURIES: Multiple gunshot wounds- left shoulder, right knee, left hand, fracture of right seventh cervical vertebra, and of the left sixth and seventh cervical vertebrae.

WEAPON: Kel-Tec; Luger; Model P-11 9 mm; semi-automatic pistol; Serial# 114069; Not Registered; Hornady 9mm Luger ammunition; weapon capacity of 10 rounds; fired ten (10) times.

WITNESS: Civilian 1; black female; DOB: XX XXX XXXX; XXXXX Orchard Avenue, Lynwood, IL

INJURIES: Gunshot Wound (graze) to the right shoulder

WITNESS'

WEAPON: Unarmed

SUMMARY OF INCIDENT:

On 06 June 2014, Officer B and his partners, Officer E and Officer A, were assigned to a Gang Enforcement Unit. While on duty, they obtained information from an anonymous source who reported to them that a person from the neighborhood known as "Malik" pointed a gun at him earlier that day. "Malik" was also described as owning a purple Buick. The anonymous individual also said he thought "Malik" was still carrying the gun. Officer B and his partners ran the name "Subject 1" through the CLEAR system. The name check search revealed a "Subject 1" with a last known address of XXXX S. Wallace. Other members of the Gang Enforcement Unit, Officer C and Officer D, were also aware of the tip and were patrolling the area when they spotted a purple Buick parked on the XXXX block of S. Wallace. A license plate search revealed that the vehicle was registered to Subject 1 at XXXX S. Wallace. Based on that information, the officers set up surveillance in the area of 93rd and Wallace. Officer B and his partners were located at 93rd and Parnell, while Officers C and D were on Lowe Street.

At approximately 2320 hours, officers communicated over the car-to-car radio that Subject 1 got into the passenger seat of a Buick Regal that traveled north on Wallace, with a female driver. Officer B and his partners drove to 93rd and Wallace and pulled in front of Subject 1's car. The three officers then exited their vehicle and approached Subject 1's vehicle. The officers announced their office and directed the occupants of the Buick to show their hands. Subject 1 then opened fire from inside his vehicle, striking Officer E on the right leg. Officers D and C arrived at the scene and observed muzzle flashes emanating from Subject 1's Buick. All five officers returned fire. Officer D was struck in his protective vest. When the gunfire subsided, Officer A reached inside Subject 1's vehicle, retrieved a handgun and threw it to the ground. Other officers removed Subject 1 and Civilian 1 from the vehicle. Officer D drove Officer E to safety. Both officers were later treated at XX Hospital. The female driver, later identified as Civilian 1, was taken by ambulance to XX Hospital where she was treated and released for a graze wound to the right shoulder. Subject 1 was taken by ambulance to XX Hospital where he was treated for multiple gunshot wounds. Subject 1 was later transferred to XX Hospital.

INVESTIGATION:

The **IPRA Preliminary Report** and the **Major Incident Notification Report** essentially related the same information as reported in the Summary of Incident of this report. (Atts. 4, 99)

On 25 February 2015, Investigator A telephonically interviewed Subject 1 while he was incarcerated at the Stateville Correctional Center. (Subject 1 refused to submit to an audio-recorded interview.) **Subject 1** stated that on 06 June 2014, at approximately 2230 hours, he left his uncle's house in the area of XXXX South Wallace. His girlfriend, Civilian 1, drove Subject 1's car. While Civilian 1 was stopped at a stop sign, an unmarked police vehicle swerved in front their car and blocked it against a curb. Subject 1 heard gunshots coming into the car and a voice call out, "Hold your fire." He then heard another voice call out "No, keep shooting." Subject 1 recalled police officers pulling him out of the car and laying him down on the ground. Subject 1 said he did not understand how spent shell casings could have been found on the floor of his car, where he was seated. He denied he was in possession of a firearm; and he did not recall firing a weapon at police officers. Subject 1 said that his memory was "messed up" and he could not recall the incident. (Atts. 78, 84)

A witness, Civilian 1, was interviewed at Area South Detective Headquarters on 07 June 2014.

Civilian 1 reported that, at one point, the vehicle she was driving was surrounded by police vehicles. She heard and complied with verbal commands directed to her, and Subject 1, to keep their hands in view. When she heard gunshots, she reclined her seat to escape the line of fire. She heard someone shout that an officer was down, and then she heard more gunshots. She recalled being taken from her vehicle to a "police truck," then to an ambulance and finally to a hospital. Civilian 1 said she was not aware of Subject 1's actions; as she was concerned exclusively with her own safety at the time. (Atts. 36, 37)

On 07 June 2014, IPRA Investigators conducted a canvass investigation in the vicinity of the incident in an attempt to locate additional witnesses and/or evidence. During this canvass investigation IPRA investigators discovered two witnesses, Civilian 2 and Civilian 3, and interviewed them. Other neighborhood residents reported that they heard gunshots but did not observe the incident. (Att. 30)

Witness **Civilian 2**, whom Subject 1 identified as his uncle, stated that he allowed Subject 1 to stay as a guest in his house at XXXX South Wallace Street. Civilian 2 reported seeing an unmarked brown SUV follow the vehicle in which Subject 1 was riding in the front passenger seat, with a female driving the vehicle. Civilian 2 saw that vehicle then proceed northbound on Wallace toward the intersection of 93rd and Wallace. Civilian 2 then noticed a dark car proceeding northbound on Lowe and a "brown SUV" proceeding westbound on 93rd, and stopping between Civilian 1's vehicle and the intersection. Civilian 2 then heard gunfire. He got down on the ground, then ran into his house and saw nothing more of the incident. He said he heard "at least sixty" gunshots. (Atts. 40, 41)

Witness **Civilian 3** reported that she has poor vision and therefore was not able to observe the figures outside of her front bedroom window in detail. She did, however, see a car surrounded by several unmarked police vehicles, and approximately three "detectives and police" (without offering any explanation as to how she knew that the subjects she observed were police officers) standing near a car, surrounding it. She heard no verbal announcement, and said that the "officers" on foot were shooting at the car they had surrounded. She was not able to see if there were occupants in the surrounded car, or if anyone inside that car was shooting at the police. Civilian 3 then lay on the floor and crawled from the room. She said she recalled hearing a series of gunshots of undetermined number, then a pause, then another series of gunshots. When the shooting subsided she heard verbal commands ordering someone to get out of the car. She observed "officers" take a female from the driver's side of the car, and then a male from the passenger side and place them both on the ground. (Atts. 42, 45)

According to **Department Reports**, Subject 1 was arrested on 06 June 2014 at 2335 hours, at 9301 South Wallace Street and charged with five (5) counts of attempted murder in the first degree. The arresting officers were Officers A and B, assisted by Officers D, C, E, F, G and H. It is reported that Subject 1 was arrested after discharging a handgun at officers. The reporting officers observed Subject 1 occupying the front passenger seat of his vehicle. When they approached the vehicle they encountered gunfire coming from where Subject 1 was seated. Officers returned fire, incapacitating Subject 1, and wounding Civilian 1, the driver of the vehicle. A 9mm Kel-Tec Luger semi-automatic handgun was recovered from Subject 1. Officers F, G and H assisted in placing Subject 1 in custody, but they were not present during the exchange of gunfire that resulted in the arrest of Subject 1. Evidence Technician A, #XXXX, Beat# XXXX inventoried numerous items at the scene which included ten (10) spent shell casings that were recovered from the interior of Subject 1's Buick. The casings were later identified as Hornady 9mm Luger cartridge casings, which an ISP lab report determined as having been fired from a Kel-Tec, model P-11, 9m Luger semiautomatic pistol, serial number 11406, which was the weapon recovered at the scene from Subject 1. (Atts. 6-9, 23, 94)

According to the **Tactical Response Reports (TRR)** completed by Officers C, A, B, E and D, Subject 1 did not comply with verbal commands and posed an imminent threat of battery with a 9mm semi-automatic handgun, establishing a level of force likely to cause death or great bodily harm. Subject 1 fired the handgun at Officer C, from a distance of over fifteen (15) feet. Officer C took cover in a Department vehicle and discharged her weapon at Subject 1 seven (7) times. Subject 1 fired the handgun at Officer A from a distance of less than five (5) feet. Officer A took cover standing by a Department vehicle and discharged his weapon at Subject 1 thirty-eight (38) times. Subject 1 fired the handgun at Officer B from a distance of over fifteen (15) feet. Officer B took cover kneeling at a tree and discharged his weapon at Subject 1 four (4) times. Subject 1 fired the handgun at Officer E, from a distance of between five to ten feet, striking Officer E on the leg. Officer E returned fire upon Subject 1 twelve (12) times, and crawled to safety. Subject 1 fired the handgun at Officer D from a distance of over fifteen (15) feet. Officer D then took cover, standing near a Department vehicle, and discharged his weapon at Subject 1 an estimated twelve (12) times. (Atts. 10, 12, 14, 16, 18)

According to the **Officer's Battery Report (OBR)** on the date, time and location of the incident, Officers C, A, B, E and D were in citizen's dress investigating the report of a person with a gun. Subject 1 discharged a firearm in the direction of the officers. Officers C, A and D each sustained a non-fatal, minor injury during the incident. Officer B sustained no injury during the incident, and Officer E sustained a non-fatal major injury during the incident. (Atts. 11, 13, 15, 17, 20)

Evidence Technician Photographs of the scene depict vehicles present at the scene; clothing left at the scene by individuals taken away for treatment, shell casings; bullet fragments; bullet impressions; indentations and breakage of objects in nearby trees and at least one residence; weapons recovered at the scene; as well as police and civilian subjects involved in the incident. Among the damage there was the following in the Buick Regal: Five bullet holes in the side doors; approximately eight bullet holes on the passenger side of the windshield; one in the rear passenger window; as well as a blood stain on the seat and back of the front passenger seat. There was bullet damage located on the outside, and on the inside of the driver's door of the grey Ford Explorer police vehicle that was facing the front of the Buick Regal in the middle of Wallace Street, at the intersection of 93rd Street. There was also a bullet hole in a nearby tree. In addition there was bullet damage to a residence located at XXXX South Wallace Street. (Att. 66)

The Event Query reports generated from the Office of Emergency Management and Communications reflect responding units, weapon recovery, and ambulance service to area hospitals for wounded civilians (Att. 22)

A search for **video** images from surveillance cameras at XX Elementary School revealed that the school's cameras were not present at the time of the incident, but were installed approximately four months after the incident's occurrence. (Atts. 83, 103)

Officer E, Officer A, Officer B, Officer D and Officer C all reported that the two police vehicles directly involved with this occurrence were not equipped with **in-car cameras**, as they were unmarked vehicles. (Atts. 51, 54, 57, 48, 80)

Several police vehicles that subsequently responded to the scene were equipped with **in-car cameras**. The images captured by an in-car camera from Beat# XXXXX did not capture the exchange of fire between Subject 1 and the officers. However, the in-car camera captured the aftermath of the incident, including Subject 1 being placed in an ambulance; the ambulance leaving the scene; assisting officers arriving at the scene and forensic investigators placing evidence markers at the scene. (Att. 68)

The **Chicago Fire Department Ambulance Reports** reflect that Officer E sustained a gunshot wound (through-and-through) to the right thigh and was taken to XX Hospital where he was treated. Civilian 1 was taken to XX Hospital with a gunshot wound to the left shoulder, "entrance, no exit." Bleeding was controlled by direct pressure. Civilian 1 was taken to the emergency department in police custody without incident. Subject 1 was monitored throughout his transport to XX Hospital. He had sustained six (6) gunshot wounds to the body and experienced no change in his status during transport. (Atts. 27, 64)

Medical records obtained from **XX Hospital** revealed that Officer E received a gunshot wound to the right thigh and that, while no bone was broken, the through-and-through injury did cause trauma to the leg such that Officer E was required to use crutches. (Att. 71)

Medical records obtained from **XX Hospital** revealed that Civilian 1 received a graze gunshot wound to the right lateral deltoid (shoulder). Civilian 1's wound was cleaned. (Att. 69)

Medical records obtained from **XX Hospital** revealed that Subject 1 was admitted with multiple gunshot wounds to the left shoulder, left scapula and right knee. An incision and drainage to left hand was deemed necessary to treat the gunshot wound to that hand. Also noted was the gunshot wound to the shoulder and the fracture of the right seventh cervical vertebra. This cervical spine fracture appears to have been the cause of Subject 1's physical inability to move his arms. Subject 1 was kept in the surgical intensive care unit for observation. Subject 1 was then transferred to XX Hospital for further care. (Att. 70)

Medical records obtained from **XX Hospital** revealed that Subject 1 was admitted to the hospital on 13 Jun 14 and released on 25 Jul 14. A fracture was observed in the bone between the shoulder and the elbow of the left arm though the bone maintained its normal alignment (non-displaced fracture). A similar type of fracture was noted in the bone below the middle knuckle of the third finger of the left hand. Bullets and bullet fragments were observed projecting over the left lateral chest and left neck base, so that the left sixth and seventh cervical vertebrae (C6/C7 located in the spine and at the base of the neck) showed bone defect/post traumatic fracture. Operative repair of the left hand was also required. (Att. 72)

Illinois State Police Forensic Science Laboratory Latent Print Report, GSR Report and DNA Report all establish and document a direct connection, by means of finger print comparison, as well as DNA and gunshot residue testing, between the firearm recovered at the scene (Kel-Tec model P-11, 9mm Luger semiautomatic pistol, serial number 114069) and its user during the incident, identified as Subject 1. (Atts. 95-98)

Illinois State Police Forensic Science Laboratory Firearms Report documented that firearms submitted for testing and identified as the firearms used during the incident by Officers C, A, B, D and E, and Subject 1's firearm, were tested and were each found to be in proper firing condition. The shell casings and

fired bullets were compared to the firearms used by the officers and by Subject 1 and found to match their respective weapons. (Att. 94)

Illinois State Police Forensic Science Laboratory Firearms Report documented that a buccal standard (i.e. material extracted from inside the cheek by means of a cotton swab) was obtained from Subject 1. A sample swab was also taken from the firearm (Kel-Tec, Model P-11, 9mm Luger semiautomatic pistol, serial number 114069) that was reported to have been recovered from Subject 1, while he was still seated inside his vehicle. The sample taken from the firearm, upon comparison with the standard obtained from Subject 1, resulted in the identification of a human male DNA profile matching that obtained from Subject 1. (Att. 95)

Illinois State Police Forensic Science Laboratory Firearms Report documented that an ink impression fingerprint standard was obtained from Subject 1. A latent impression was also obtained from the magazine belonging to the firearm (Kel-Tec, Model P-11, 9mm Luger semiautomatic pistol, serial number 114069) recovered from Subject 1. A comparison of those two impressions indicated a match between the impression recovered from the firearm's magazine and the fingerprint standard obtained from Subject 1. (Att. 96)

Illinois State Police Forensic Science Laboratory Firearms Report documented that an analysis of the gunshot residue (GSR) obtained from Subject 1 indicated that Subject 1 either discharged a firearm, contacted a primer gunshot residue (PGSR) related item, or had his right hand in the environment of a discharged firearm. (Att. 97)

The **ATF Report** documented the original purchaser of a KelTec model P11 pistol with Serial Number 114069 as having been Civilian 4at "The Bullseye" in St. Louis, Missouri on 08 JAN 02. The report further stated that this firearm was previously traced on 29 Sep 09, relative to a criminal investigation in St Louis County, Missouri. At this time, there is no known connection between the prior trace and this investigation. (Att. 98)

Drug and Alcohol Testing authorized and conducted by the **Bureau of Internal Affairs** determined that Officers C, A, B, D and E, were free from the influence of any controlled substance at the time of the incident. (Atts 59-62)

In his statement to IPRA on 10 February 2015,¹ Officer E stated that he was with his partners, Officers A and B in a grey Ford Explorer, and working also with another vehicle staffed by Officers C and D, when they responded to information about a person with a gun in a vehicle (now known as a 1995 Buick Regal). Officer E stated that he drove his assigned grey Ford Explorer up to the vehicle. Officer E exited the grey Explorer and announced his office. He called out "Show your hands," and began to un-holster his weapon. As the Buick Regal was illuminated by means of the grey Explorer's lights, Officer E saw Subject 1 clearly through the Buick Regal's windshield, seated on that vehicle's front passenger seat. Officer E said that Subject 1, while seated in that front passenger seat, appeared to be leaning forward toward the inside of the Buick Regal's windshield. Officer E then called out a second time, "Show your hands." At that point Subject 1 produced a firearm and fired at Officer E approximately "two or three times." Officer E returned fire. Subject 1 fired again, striking Officer E on the right leg.

A typographical error on the first page of the transcript of this recorded interview indicated that the interview was conducted at 0610 hours on 06 June 2014, approximately seventeen hours prior to the incident's occurrence. Within the text of the transcript, however, the correct date of the interview is clearly indicated as 10 February 2015.

Officer E then fell back onto the ground as Subject 1 continued to fire down at him from the open front passenger window of the Buick Regal. Positioned on the ground, Officer E returned fire until he emptied the magazine in his weapon. Officer E then holstered his weapon and attempted to crawl backward out of Subject 1's range of fire. As he continued to crawl away he did not notice that his weapon fell from its holster. Officer E tossed his additional full magazine over to Officer A, before remembering that his and Officer A's weapons required differently calibrated ammunition. Officer E announced his injury on his radio. After Officer E reached a safe location, Officer D drove near to him. Officer E then crawled onto the passenger seat of Officer D's vehicle. Officer D then drove Officer E and himself from the scene. (Att. 80)

In his statement to IPRA on 08 June 2014, Officer A stated that he was with his partners, Officer B and Officer E and working with Officer C and Officer D when responding to information about a person with a gun riding in the front passenger seat of a civilian car. After locating the civilian car, officers verified the identity of the individual named "Malik." and conducted brief surveillance of his vehicle. Officer A stated he and his partners, Officer E and Officer B were in the "takedown" vehicle while Officer D and Officer C were the "eyeball" meaning they were watching the subject's vehicle. On information from Officers C and D that the subject's car was moving, Officer A and his partners proceeded in their police vehicle, a grey Ford Explorer, toward the suspected car, a Buick Regal. As they approached the Buick Regal, which their PDT search confirmed as belonging to Subject 1, they activated the Explorer's emergency lights, and stopped at an angle in front of the Buick Regal. Officer A then exited the rear passenger side door of the grey Explorer and ran toward the driver's side of the Buick Regal before noticing that Officers B and E had also exited the Explorer. Officer A was approximately five feet away from the driver's side door of the Buick when he said, "Get your hands up. Let me see your hands." Officer A then observed Subject 1 firing from the Buick's front passenger side window at Officer E, who was standing near the driver's side of the Explorer, which on the same side of the street as the passenger side of the Buick. Subject 1 then appeared to take aim and begin to shoot at Officer A. Officer A then backed away from the Buick Regal while firing into the passenger side of that vehicle's windshield. At that point Subject 1 was leaning out of the passenger side window and reaching around the front of the car's windshield, firing at Officer A. Officer A kept backing away toward the grey Explorer, seeking cover, and continuing to fire at the passenger side of the Buick's windshield. As Officer A retreated, and by the time he arrived at the right rear corner of the grey Explorer, he had emptied the 16 rounds of his magazine. He then dropped to one knee and inserted a new magazine into his firearm. Officer A then moved to the left rear corner of the grey Explorer. There, from his kneeling position, Officer A could see that the driver's door of the grey Explorer was standing open, with the window of that door completely lowered. Officer A could also see Officer E on the grass near the curb on the passenger side of Subject 1's vehicle, approximately 15 feet from Officer A's position. Officer E was on the ground in a semi-seated position and leaning back. Officer E indicated that he had been shot and Officer A directed him to take cover behind a nearby tree. At this time, Officer A could clearly see Subject 1 moving and he observed him fire one additional shot in the direction of Officer E, who was still on the ground, attempting to crawl towards the tree. Officer A was positioned on the driver's side of the Ford Explorer, with a clear shot of Subject 1. Fearing for his partner's safety, Officer A fired an additional thirteen rounds at the passenger side of the windshield, where Subject 1 was seated. Officer A was positioned alongside the driver's side of the Explorer, behind the open driver's side door, which he was using for cover, and firing through the Explorer's open window. Officer C approached Officer A from behind and they were both positioned at the rear driver's side of the Explorer. Officer A then reloaded his weapon for a second time. Officer A was screaming in effort to inform the other officers that they needed to get a car in between Officer E and Subject 1. Officer A observed Officer D driving the unmarked Crown Victoria up next to Officer E.

Officer D exited the vehicle in order to help Officer E off the ground and into the car. At this point, both Officer D and Officer E were both out in the open, without cover. Officer A could still see Subject 1 moving in the passenger seat of his car and he had not seen Subject 1 throw the gun out of the car, so he fired an additional eight or nine rounds at Subject 1, fearing that he was still a threat to Officer E and Officer D. After firing those rounds, Officer A heard no more shots being fired from the Buick Regal and became aware that Officer E and Officer D had left the scene. Officer A also saw marked police vehicles approaching and entering his potential line of fire. Officer A then approached the Buick's open front passenger window. Through that open window he observed Subject 1 slumped forward with a gun in his hand and with his finger on that gun's trigger. Officer A took the gun from Subject 1's hand and tossed it behind him onto the ground. He then knelt over that gun to protect it as evidence. (Att. 51)

In his statement to IPRA on 08 June 2014, Officer B stated that he and his partners, Officers A and E, obtained information from a citizen that a person named "Malik" threatened him with a gun and that "Malik" was riding around the area in a car while still in possession of the gun. The citizen had also given them information that "Malik" was in a purple Buick with rims. A data search revealed that a "Subject 1" lived at XXXX S. Wallace and there was a Buick registered to him. . The Buick was observed parked on Wallace Street, just south of 93rd Street, so the officers set up surveillance. Officers C and D were in a position on Lowe Avenue, between 93rd and 94th Streets, to maintain a constant view of the parked Buick Regal. When the Buick Regal began to move, Officers C and D then radioed that information to Officers B, A and E. Officers B, A and E then drove westbound to the intersection of 93rd and Wallace. Their grey Explorer then met the Buick Regal at that intersection and stopped in front of it, while activating the Explorer's flashing lights and spot lights. Officer B then began to exit the police vehicle's front passenger seat before Officer E exited the driver's seat. The spotlight from the Explorer was trained on Subject 1's vehicle. As Officer B was exiting the car, he noticed that Officer A was already out on the street. As Officer B took a step away from the Explorer, he observed Subject 1 with a gun in his hand. Officer B immediately announced his office and began commanding Subject 1 to drop the gun. Almost simultaneously, Subject 1 pointed the gun outside of his window and fired in rapid succession in the direction of the officers and the grey Explorer. Officer B then ran westbound on 93rd Street and took cover behind a tree, approximately 30 feet from the intersection of 93rd and Wallace. Realizing his line of fire was obscured by a fence, Officer B advanced to a second tree, which was several feet closer to Subject 1. From his vantage point behind a tree, Officer B had a clear shot of Subject 1 and he fired "approximately four shots" at the passenger side of the Buick Regal after seeing muzzle flashes emanating from same. From his position of relative safety, Officer B was able to use a slow trigger pull and take carefully targeted shots, in an effort to eliminate the threat towards his fellow officers. Hearing Officer E call out that he had been shot, Officer B issued a "10-1" call on his radio. He then looked for Officer E and saw that he appeared to be out of danger and additional police vehicles were arriving on the scene. (Att. 54)

In his statement to IPRA on 09 June 2014, Officer D stated he was with his partner, Officer C, when they received information from Officers A, B and E, who were patrolling the area in an unmarked grey Ford Explorer, about a subject who was dealing drugs from the front passenger seat of a car and who also had a gun in the car. Officer D stated that he observed the vehicle in question (now known as a Buick Regal) while it was parked, and that, when the vehicle began to move northbound, he and Officer C notified Officers A, B and E that the vehicle was in motion. Officer D then drove north on Lowe and turned right or east onto 93rd Street, headed toward the intersection of 93rd and Wallace. Officer D observed the officers' grey Explorer and the Buick Regal at the intersection of 93rd and Wallace.

The grey Explorer's emergency lights were flashing and its spot lights were also illuminated and trained on the windshield of the Buick Regal. Officer D stated that he saw gunfire coming from the Buick Regal toward Officer A's vehicle, the grey Explorer, and saw Officer A returning fire. Officer D stated that he then exited his vehicle and proceeded to the rear of his vehicle. He said that he heard gunshots coming from the Buick Regal and heard bullets going past him. Officer D then fired his weapon from behind his car toward the Buick Regal. Officer D stated that he felt the impact of a bullet striking his protective ballistic vest. He reported seeing a bullet then fall from his vest onto the ground. Officer D then dropped to his knee. Officer D heard Officer E call out that he was shot. Officer D re-entered his vehicle and drove to Officer E's location. Officer E was unable to walk, so Officer D helped him get into the car. Then Officer D drove himself and Officer Alonzo to the hospital. (Att. 57)

In her statement to IPRA on 08 June 2014, Officer C stated that on June 6, 2014, she was assigned to a Gang Enforcement Unit and was working with her partner, Officer D. Earlier that day, she and Officer D received information from Officer A, Officer E, and Officer B that a man in Buick Regal with rims had a gun on him. While on routine patrol, Officer C spotted a vehicle matching that description. Officer C and Officer D were in an unmarked Crown Victoria that was equipped with a PDT. However, the PDT in their car was not functional, so Officer C and Officer D gave the plate number to Officer A, Officer E, and Officer B, so they could run the license plate from their vehicle. Officer C and Officer D kept the Buick Regal, which was parked near 9351 South Wallace, under surveillance from their position at 94th and Lowe. When the vehicle's brake lights illuminated, Officer C informed Officer D that the driver of the Buick Regal appeared prepared to drive the car northbound on Wallace. Officer D then passed that information over to Officers A, B and E via radio. Upon relaying that radio message as a signal for Officers A, B and E to proceed toward and intercept the Buick Regal, Officer D pulled his Crown Victoria away from the surveillance point near 94th and Lowe and proceeded north toward 93rd and then east toward the intersection of 93rd and Wallace. As the Crown Victoria approached that intersection Officer C observed the emergency lights of the grey Ford Explorer of Officers A, B and E, as it was situated in front of the Buick Regal. Officer C also heard gunfire and saw muzzle flashes coming from the passenger side of the Buick. Officer D stopped his Crown Victoria at the intersection of 93rd and Wallace. Officer C saw more flashes coming from the passenger side of the Buick Regal and heard multiple shots being fired. Officer C began to exit the Crown Victoria with Officer D, but rounds from the passenger side of the Buick Regal were being fired at the Crown Victoria. Officer D stood at the rear of the Crown Victoria telling Officer C to exit the Crown Victoria. Unable to exit the Crown Victoria without being fired upon, Officer C then positioned herself on the right edge of the front passenger seat, facing outward with the passenger door propped open by her leg. Both Officer C and Officer D were shouting in the direction of the Buick Regal, saying, "Let me see your hands." From that position Officer C discharged her weapon seven times toward the Buick Regal. Officer C reported seeing Officer A behind the grey Explorer and Officer E on the ground. At a point when Officer C saw no more muzzle flashes emanating from the Buick Regal, she and Officer D ran toward Officer E, who was situated on the grass alongside 93rd Street east of Wallace Street near the southeast corner of the intersection. Before reaching Officer E's position, Officer C joined Officer A behind the grey Explorer while Officer D returned to the Crown Victoria. At one point Officer E tossed his backup magazine to Officer A, but the magazine slid under the grey Explorer. Officer C crawled under the vehicle and retrieved the magazine, but its ammunition was calibrated differently from the ammunition Officer A was using at the time. By that time Officer D returned, driving the Crown Victoria over to Officer E's position to assist him. Officer C said that as a marked SUV approached the scene and seemed in danger of being fired upon by the passenger in the Buick Regal, she and Officer A then left the side of the Explorer and

relocated to the front passenger window of the Buick Regal, where Officer A then took a handgun from the front seat passenger, now known Subject 1. (Att. 48)

Criminal charges of Attempted Murder were initially filed against Subject 1 under municipal case number 14111807501, which was superseded by direct indictment on July 3, 2014. Charges are still pending against Subject 1 for Attempted Murder, Aggravated Battery, and Aggravated Discharge of a Firearm under criminal case number 14CR1175801. The next court date is March 27, 2017.

No civil suit was ever filed relative to the facts of this incident. Furthermore, the statute of limitations to file such a claim ran on June 6, 2016.

CONCLUSION AND FINDING:

The actions which unfolded on June 6, 2014 are governed by both CPD General Orders, as well as the Fourth Amendment. A careful examination of the entirety of the incident as well as the individual actions of the officers involved shows the officers acted in a manner consistent with CPD General Orders.

I. TRAFFIC STOP**A. Fourth Amendment Analysis**

Passengers are "seized" for Fourth Amendment purposes when the vehicle in which they are traveling is subjected to a traffic stop.² Therefore, an examination of the facts which led to the traffic stop in this case is necessary to determine whether the officers acted within the bounds of the Fourth Amendment in stopping Subject 1's vehicle. There is no constitutional or statutory requirement that a police officer must have probable cause before stopping an individual or an automobile. If a reasonable suspicion exists, an officer may stop an individual without probable cause, in order to investigate criminal activity (otherwise known as an investigatory stop or *Terry* stop).³ Reasonable suspicion sufficient to conduct an investigatory stop can be premised on an informant's tip, but some indicia of reliability must be present to justify the stop.⁴ The facts of this case demonstrate that officers were able to verify that a man named Subject 1 lived at XXXX S. Wallace and had a purple Buick Regal registered in his name. This independent corroboration of the information they received from their informant constitutes indicia of reliability sufficient to justify an investigatory stop.⁵ Therefore, the officers acted in accordance with the Fourth Amendment with regard to the traffic stop of Subject 1's vehicle.

B. Tactical Considerations for Vehicle Pursuit

There were two police cars involved in the initial events on June 6, 2014. The unmarked Ford Crown Victoria, which was driven by Officer D with Officer C in the front passenger seat, and the unmarked Ford Explorer, which was driven by Officer E, with Officer B in the front passenger seat, and Officer A in the rear passenger seat. While conducting surveillance on Subject 1's vehicle, officers in the Crown Victoria acted as the "eyeball" or the look-out vehicle and the Explorer acted as the "take down vehicle." Once Officer C and Officer D observed Subject 1 and Civilian 1 enter the Buick and saw the brake lights illuminated, they alerted Officer E, Officer A and Officer B. All five officers knew that Subject 1's Buick was traveling northbound on Wallace, towards the intersection with 93rd Street. The Explorer headed westbound on 93rd Street, with emergency lights activated, toward the intersection with Wallace, in order to intercept the Buick. This is corroborated by the available dash-cam footage which clearly shows the Explorer's flashing emergency lights. Officer E turned left onto Wallace and stopped with the Explorer parked at a southwest facing angle, just as Subject 1 and Ms. Robinson were approaching the intersection. Civilian 1, the driver, brought the Buick to a stop several feet from the bumper of the Explorer. The Buick was on Wallace, positioned facing northbound on the right, or east side of the street.

Because of the inherent risks associated with vehicle pursuits, the Chicago Police Department has a

² *Brendlin v. California*, 551 U.S. 249, 169 L.Ed.2d 132, 138-39, 127 S.Ct. 2400 (2007); *People v. Bunch*, 207 Ill.2d 7, 13, 796 N.E.2d 1024, 277 Ill.Dec.658 (2003).

³ *Terry v. Ohio*, 392 U.S. 1, 20 L.Ed. 889, 88 S.Ct. 1868 (1968).

People v. Diaz, 247 Ill. App 3d 625, 617 N.E.2d 848, 851, 187 Ill.Dec.391 (2nd Dist.1993).⁵ *People v. Miler*, 2014 11 App (2¹¹) 120873, P 27, 9 N.E. 3d 1210, 1218.

General Order which regulates the use of such tactics. The General Order which was in effect at the time of this incident defines a vehicle pursuit as:

An active attempt by a sworn member operating an authorized emergency vehicle to apprehend any driver or operator of a motor vehicle who, having been given a visual and audible signal by the officer directing such driver or operator to bring his or her vehicle to a stop, fails or refuses to obey such direction, increases or maintains his or her speed, extinguishes his or her lights, or otherwise flees or attempts to elude the officer.

Note: A routine traffic stop or other instance in which an officer activates his or her emergency lights and/or siren and the citizen/vehicle operator complies by coming to a stop in a reasonably short distance will NOT be considered a motor vehicle pursuit.⁶

The facts of this investigation show that officers gave a visual signal to stop Subject 1's vehicle by activating their emergency lights and positioning the Explorer in the path of the oncoming Buick. The evidence further shows that Civilian 1 complied with these visual signals by bringing the Buick to a complete stop. Therefore, this interaction did not escalate to a motor vehicle pursuit as defined by the General Order. Furthermore, the tactic used by Officer E to curb Subject 1's vehicle did not constitute "boxing in" under the General Order, which is prohibited. "Boxing in" is described as "a deliberate tactic by two or more police vehicles to force a pursued vehicle in a specific direction or to force a pursued vehicle to stop or reduce speed by the maneuvering of police vehicles in front of, behind, or beside a pursued vehicle." In this case, there was only one police vehicle involved in the actual stop and the definition of "boxing in" requires two or more police vehicles. Additionally, photographs of the scene clearly demonstrate that there was ample room for Subject 1's vehicle to maneuver around the Explorer, should they have chosen to disobey the visual signal to stop the vehicle.⁸ Therefore, the tactical measures taken to effectuate the traffic stop of Subject 1's vehicle, although unwise, did not violate the General Order pertaining to vehicle pursuits.⁹

II. THE USE OF DEADLY FORCE

A. Legal Standard

The Chicago Police Department General Order governing an officer's use of deadly force in place on the date of this incident stated as follows:

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

⁶ **General Order 003-03-01, "Emergency Vehicle Operations — Pursuits"** Appendix: Glossary Terms, #4 (Attachment 105).

⁷ General Order G03-03-01, "Emergency Vehicle Operations Pursuits" Appendix: Glossary Terms, #11 (Attachment 105).

⁸ Evidence Technician photographs (Attachment 66)

⁹ See IPRA's August 8, 2016 Advisory Letter to Chicago Police Superintendent Eddie T. Johnson, Re: Use of "Box-In" Vehicle Tactic (<http://www.iprachicago.org/advisory-letter-regarding-box-in-vehicle-tactic/>)

- 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, otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.ⁱ

Allegations that a law enforcement official used 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; see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). In order to find a violation of Departmental policies, an allegation of misconduct must be supported by a preponderance of evidence. Therefore, to find a violation of the Department's policy regarding the use of deadly force, there must be a preponderance of evidence to establish that the officer's conduct was objectively unreasonable based on the totality of the circumstances.

Each of the five officers involved had a different role in this rapidly unfolding incident. Therefore, in order to evaluate the reasonableness of each officer's use of deadly force, their conduct must be examined individually, taking into consideration the totality of the circumstances.

As outlined below, the forensic evidence, eye witness statements, and medical records establish that Subject 1 was in possession of a firearm on June 6, 2016, and that he fired that weapon at least ten times in the direction of officers, striking Officer E in the leg and Officer D in the protective vest. There is more than a preponderance of evidence to prove that the actions of Subject 1 endangered the lives of these officers, and, therefore, that each of the officer's use of deadly force was reasonable under the circumstances.

B. Analysis of the Use of Force by Officer

Officer E

Officer E was driving the Explorer as it stopped Subject 1's vehicle. As Officer E exited the Explorer, he announced his office and gave a verbal command to Subject 1 to show his hands. Officer E then reached for his weapon as he gave the same command a second time, at which point Subject 1 fired a gun at Officer E, striking him in the leg. Subject 1 continued to fire at Officer E as he lay wounded on the ground approximately ten feet from Subject 1. Officer E was without cover as he fired back at Subject 1, in fear of his life. Officer E fired his weapon twelve times, until his weapon went into slide lock, at which point he attempted to crawl towards a tree for cover. Given the totality of the circumstances, Officer E reasonably believed deadly force was necessary to prevent death or great bodily harm to himself and his fellow officers.

Officer A

Officer A was riding in the rear passenger seat of the Explorer. As the vehicle came to a stop, Officer A immediately jumped out of his vehicle and was heading quickly towards the driver's side door of Subject 1's Buick. Officer A announced his office and gave verbal commands for Subject 1 to show his hands. When Officer A was approximately five feet from the Buick's driver's side, he observed Subject 1 with a gun in his hand, firing at Officer E. Fearing for his partner's safety, Officer A began firing his weapon at Subject 1. Subject 1 then pointed his gun and fired at Officer A. Officer A retreated towards the passenger side of the

^m General Order 03-02-03 "Deadly Force" (Attachment 106).

Explorer, as he continued to exchange gunfire with Subject 1. By the time Officer A reached the rear of the Explorer, he had fired sixteen rounds and had to reload his weapon. Officer A then moved to the driver's side of the Explorer, where he saw Officer E struggling to seek cover. Officer A then saw Subject 1 fire an additional round at Officer E. Again, fearing for his partner's life, Officer A fired approximately 13 more rounds into the passenger side of the Buick's windshield. At this point, Officer A reloaded his weapon for a third time, just as Officer D was attempting to help Officer E off of the ground and into his police vehicle. With both Officer D and Officer E now without cover, Officer A observed Subject 1 still moving in the passenger seat of his vehicle. Officer A then fired approximately eight or nine more shots into the Buick.

Officer A reloaded his weapon twice during this incident and fired three separate volleys of shots at Subject 1, which was a total of 38 bullets. However, Officer A articulated specific facts that occurred prior to each separate volley, which caused him to reasonably believe that Subject 1 still presented an immediate threat. The first volley of shots was fired in direct response to Subject 1 firing upon Officer E and Officer A. The second volley of shots was fired in defense of Officer E, who was wounded and without cover and who Subject 1 had just fired upon again. Officer A's third volley of shots was fired as Officer D attempted to help Officer E into the car, which caused them to both be without cover. Although Subject 1 had not fired his weapon again, Officer A could still see him moving and he had not thrown his weapon from the car nor had he made any attempt to surrender. Therefore, Officer A perceived that Subject 1 remained a threat to his partners' lives. Given the totality of the circumstances, Officer A reasonably believed deadly force was necessary to prevent death or great bodily harm to himself or his partners.

Officer B

Officer B was the front passenger in the Explorer. Upon exiting the vehicle, Officer B saw Subject 1 with a gun in his hand almost immediately. Despite verbal commands to drop the weapon, Subject 1 fired his weapon multiple times at the officers. Officer B ran westbound on 93rd Street and sought cover behind a tree located approximately 20 to 30 feet from Subject 1. Officer B saw his fellow officers being fired on by Subject 1 so he fired four shots at Subject 1. Given the totality of the circumstances, Officer B reasonably believed his use of deadly force was necessary to prevent death or great bodily harm to himself or his partners.

Officer D

Officer D was the driver of the unmarked Crown Victoria. As he and his partner, Officer C, approached the intersection of Wallace and 93rd, he saw muzzle flashes and heard gunfire. He parked his vehicle and as he exited, he realized Subject 1 was firing shots at the passenger side of his vehicle, placing both him and Officer C in danger. Officer D fired 12 shots in return. During this exchange of gunfire, Officer D was shot in the chest of his protective vest, which caused bruising and pain. Given the totality of the circumstances, Officer D reasonably believed his use of deadly force was necessary to prevent death or great bodily harm to himself or his partners.

Officer C

Officer C was the passenger in the unmarked Crown Victoria. As she and Officer D arrived, she immediately realized shots were being fired by Subject 1, directly into her passenger door. Officer C propped her door open and used it for cover and she sat sideways in her seat and fired seven times at Subject 1. Given the totality of the circumstances, Officer C reasonably believed her use of deadly force was necessary to prevent death or great bodily harm to herself or her partners.

The preponderance of the evidence indicates that each of the officers' actions were in accordance with the requirements of the Department's deadly force policy, in that they reasonably believed the deadly force was necessary to prevent death or great bodily harm to themselves or their fellow officers.

While we acknowledge that the total number of shots fired by the officers during this incident is undoubtedly high, and may appear excessive, the number of shots fired is not a dispositive as to whether or not the deadly force used was excessive. A high number of shots fired may be reasonable in light of the circumstances. In other words, we must ask whether the number of shots fired at Subject 1 was necessary and proportional to the threat that he presented. To be sure, an officer's use of force must cease when the threat has been ameliorated. Here, the officers faced a highly dynamic and violently dangerous situation. Subject 1 fired shots at Officers E, A and B almost immediately. Officer E was hit and additional shots were fired at Officer A and B as they sought cover. Officer E was injured on the ground without cover approximately 10 feet from Subject 1. Officer D and Officer C were being shot at and Officer D was hit in the protective vest. All of the officers were in close proximity to the vehicle from which Subject 1 was firing. Subject 1 never dropped his weapon or attempted to surrender and he continued to move while inside of his vehicle, making it impossible for the officers to know whether he still posed a threat. Under these circumstances, it does not appear that any of the officers continued to fire beyond when they perceived the threat to have ceased.

Based on the totality of circumstances, there is a preponderance of evidence showing that the use of deadly force by Officers E, A, B, D and C was objectively reasonable and necessary and, accordingly, Within Department Policy.