

SUMMARY OF INCIDENT

On 20 September 2014, Officer A and Officer B were on routine patrol driving eastbound from XXXXX Avenue onto XXXXX Street when they observed a white Cadillac driven by Subject 1 fail to stop at a stop sign located at the corner of XXXXX Avenue and XXXXX Street. As Subject 1 turned eastbound onto Arthington Street, the officers activated their emergency equipment and attempted to conduct a traffic stop of Subject 1's vehicle. Subject 1 failed to stop for the officers and continued to drive eastbound towards Independence Boulevard, then northbound into an alley just west of Independence Boulevard, and then westbound on Polk Street from the alley. Subject 1 then turned northbound in an alley adjacent to the basketball court located and XXXX Street and XXXXX Avenue, where he stopped his vehicle.

Subject 1 and an unknown male who had been the passenger of the vehicle exited and ran westbound. Subject 1 ran into a gangway where he attempted to climb over a fence. Subject 1 was unable to escape and subsequently surrendered to the officers; the passenger fled on foot and was not apprehended.

Officers A and B placed Subject 1 in handcuffs. Officer B then ran back to the squad car because the keys were still in the ignition. Officer A escorted Subject 1 out of the gangway and toward the squad car.

Subject 1 told Officer A that he had asthma and could not breathe. Subject 1 asked Officer A to retrieve his inhaler from his pocket. Officer A retrieved Subject 1's inhaler from his pocket and gave Subject 1 one to two puffs of his inhaler before heading back to the squad car. When Subject 1 and Officer A arrived at the squad car, Subject 1 again asked for his inhaler and asked if he could stand outside the squad car to catch his breath. Officer A gave Subject 1 one to two more puffs of his inhaler. Moments later, Subject 1 informed the officers that he was "okay," and the officers placed him in the backseat of the squad car.

A subsequent search of Subject 1's flight path, revealed a handgun in the gangway at XXXX W. Lexington Avenue. A check of Subject 1's driver's license showed that his license was suspended. While conducting a custodial search of Subject 1, Officer A found approximately \$1200 in small bills on his person. Officer A was unsure as to how to proceed so he requested that his Supervisor, Sergeant A, respond to the scene for further guidance.

Sergeant A arrived on scene, spoke with the officers, and then indicated that he wanted to speak with Subject 1. Sergeant A spoke with Subject 1 and observed that he was having difficulty breathing. Subject 1 again asked for his inhaler. Sergeant A removed Subject 1's handcuffs and Subject 1 administered several doses of his inhaler to himself. Subject 1 appeared to catch his breath. Sergeant A requested an ambulance. While waiting for the ambulance Subject 1 appeared to have further difficulty breathing. Subject 1 was able to sit with the doors open and his legs outside of the squad car in an effort to help him catch his breath.

Chicago Fire Department Engine #XX arrived and Officer A flagged them down. Subject 1 was able to converse with the FF/EMT and did not appear to be in significant distress.

A mask dispensing Albuterol was placed over Subject 1's mouth but Subject 1 removed the mask as if he did not want it. Moments later, the paramedics arrived and placed Subject 1 on a stair chair, and then placed Subject 1 inside the ambulance. While en route to XXXXX Hospital, Subject 1 became unresponsive and CPR

was initiated. Upon arrival at XXXXX Hospital, further attempts to revive Subject 1 were conducted by Emergency Room personnel, to no avail. Subject 1 was pronounced dead at 1926 hours.

ALLEGATIONS

It was alleged that **Officer's A, #XXXXX and B, #XXXXX:**

- 1) Failed to provide Subject 1 with medical attention, and
- 2) Taunted Subject 1 with his inhaler.

APPLICABLE RULES AND LAWS

Rule 6 "Disobedience of an order or directive, whether written or oral." **Rule 8** "Disrespect to or maltreatment of any person, while on or off duty." **Rule 10** "Inattention to duty."

General Order 06-01-01 - Field Arrest Procedures

INVESTIGATION

The **CPD Event Query and OEMC Transmissions** show the following:

- 6:19:49 p.m., Beat XXXX, Officers A and B notified OEMC of a street stop.
 - 6:19:49 p.m., Beat XXXX requested license plate information on plate #XXXXXXXX IL.
 - 6:21:43 p.m., Beat XXXX requested a drivers' license check on DL #XXXXXXXX IL.
 - 6:28:04 p.m., Beat XXXX requested a supervisor to the location of Polk Street and Springfield Avenue.
 - 6:28:07 p.m., Beat XXXX, Sergeant 1 acknowledges the request.
 - 6:28:17 p.m., Beat XXXX, Sergeant 1 requested that dispatch change his location to the alley behind the basketball court at XXXX Street and Springfield Avenue.
 - 6:32:41 p.m., a female caller telephoned 911 and stated, "a male is having an asthma attack in the back of a police car in the alley behind the basketball court, and the officers are not giving him his pump."
 - 6:33:20 p.m., Beat XXXX, Sergeant 1 reported to dispatch "a male is having breathing trouble" at XXX S. Polk Street.
 - 6:34:13 p.m., Engine #XX dispatched to XXX W. Polk Street.
- 6:34:53 p.m., Ambulance #XX dispatched to XXX W. Polk Street.

¹ This is the first transmission from the officers; the foot chase was not broadcasted via police radio.

- 6:38:46 p.m., Engine #XX arrives on scene.
- 6:41:39 p.m., Ambulance #XX arrives on scene.
- 6:50:19 p.m., Engine #XX leaves location and goes back into rotation.
- 6:55:05 p.m., a male caller telephoned 911 and stated that "a male is having an asthma attack and he looks as if he is about to die. Caller further stated that the officers won't get an ambulance for him."
- 7:04:31 p.m. Ambulance #XX enroute to XXXXX Hospital.
- 7:09:43 p.m. Ambulance #XX arrives at XXXXX Hospital.

(Atts. 6, 15, 84-86, 88)

The **Case Supplementary Report** and the **Original Case Incident Report** for **RD #XXXXXXXX** documents that Subject 1 is XX, XXX pounds. The reports indicate that Subject 1 was in possession of a Lugar 9mm semi-automatic pistol with a defaced serial number. The weapon was found loaded to its capacity, with five cartridges in the magazine and one in the chamber. Subject 1 was driving a XXXX XXX XXXX XXXX Sedan, X door, License plate #XXXXXXXX, that was towed to XXXXX S. Doty Rd. Subject 1 had \$X, XXX.00 on his person. (Atts. 10, 11)

The **Detective Supplementary Report** and The **Original Case Incident Report** for **RD XXXXXXXX** documents that Beat 1187, Officers A #XXXXXX and B #XXXXXX, observed a XXXXX XXXXXXXX commit a traffic violation. Beat 1187 drove behind the XXXXXXXX at which time the XXXXXXXX made several sharp turns. Beat 1187 activated their emergency equipment after which the XXXXXXXX turned into an alley and stopped. Two male blacks exited the XXXXXXXX and fled on foot. Beat XXXX pursued the driver, Subject 1. Subject 1 was apprehended in the gangway of XXXX W. Lexington Avenue and was subsequently placed into the squad car.

The report indicates that a short time later, an ambulance was requested because Subject 1 was having difficulty breathing. A CFD ambulance arrived on scene and provided Subject 1 with medical treatment. A subsequent search of Subject 1's path during the foot chase revealed a handgun in the gangway of XXXX W. Lexington Avenue.

The Reporting Detectives spoke with relatives of Subject 1. His brother Civilian 1, sister Civilian 2, and uncle Civilian 3. All confirmed that Subject 1 had severe asthma.

The Reporting Detectives also spoke with CFD personnel Firefighter A, Lieutenant A, and Paramedic A. The statements given to the detectives are consistent with statements given to IPRA.

The Reporting Detectives also with spoke with Officer A, Officer B, and Sergeant A. The statements given to the detectives are consistent with statements given to IPRA. (Atts. 12, 82)

The **CFD Ambulance Report** documents that, at 6:30 p.m., Emergency Medical Services (EMS) personnel were dispatched to XXX W. Polk Street for a person who had difficulty breathing. EMS arrived at 6:41 p.m. and found Subject 1 sitting in the back of a squad car, awake, but with a decreased level of consciousness and in the care of Engine XX. The report indicates that on-scene CPD personnel related that Subject 1 fled on foot in a full sprint following a traffic stop. Subject 1 was caught and placed into custody. Subject 1 stated he was having difficulty breathing and the officer assisted Subject 1 with his MDI of Albuterol "ten to fifteen times" prior to the arrival of CFD Fire Engine XX.

The report additionally documents that Subject 1 was given a nebulized treatment of Albuterol and Atrovent. Upon arrival of the ambulance, Subject 1 was sitting up in the back seat of the squad car with his feet on the ground and his hands cuffed in front of him. The ambulance crew observed that Subject 1 had a decreased level of consciousness but was able to make eye contact and communicate. Subject 1 stated that he was having trouble breathing. Subject 1 had shallow respirations that did not appear to be labored. The report documents that the ambulance crew initially suspected a possible opiate overdose based on shallow respirations, but noted Subject 1's pupils were two to three millimeters and reactive to light. Subject 1 was transferred onto a stair chair and into the ambulance. Once inside the ambulance, the ambulance crew noted that Subject 1's respiratory effort was becoming inadequate.

The report documents that the ambulance crew provided Subject 1 ventilations with BVM.² Subject 1 was placed on a cardiac monitor and found to be in an idioventricular rhythm. The ambulance crew was unable to palpate a carotid pulse. CPR was initiated. IV access was established and one milligram of atropine was administered with no detectable change in rate or rhythm. Subject 1 was intubated, although poor compliance with ventilation was documented in the report. CPR continued and epinephrine was given to Subject 1. The report documents that Subject 1's care was transferred to the resuscitation team at XXXXX Hospital Emergency Room. (Att. 4)

On 20, September 2014, at 2112 hours, **IPRA spoke with Doctor A at XXXXX Hospital** who stated that Subject 1 died of an apparent respiratory failure. Doctor A stated that she did not observe any other immediate signs of trauma to Subject 1's body. Doctor A related that Subject 1 was pronounced at 7:26 p.m.

IPRA also spoke with **Detectives A, #XXXX** and **Detective B, #XXXX**. Detective B stated that Subject 1 had a small scratch on his wrist and no other obvious signs of trauma to his body. Detective A indicated that family members confirmed that Subject 1 suffered from asthma. Detective A also stated that the IPRA investigator was not allowed into the hospital room until the crime scene unit processed the body and obtained photographs. (Att. 8)

Medical Records document that Subject 1 was brought to the Emergency Department at 7:09 p.m. in cardiopulmonary arrest. He was pronounced dead at 7:26 p.m. by Doctor A. The medical records indicate that Subject 1 arrived at the hospital in full cardiac arrest and was not responsive. The records indicate that he was intubated, given epinephrine, and CPR was performed. The medical records do not indicate that Albuterol was administered at the Hospital. The CFD Ambulance report indicates that prior to their arrival; CFD EMT's gave Subject 1 2.5mg of Albuterol and 0.50mg of Atrovent. CFD Paramedics provided Subject 1 with oxygen along with 1.0mg of Atropine and a nebulizer treatment. (Att. 83)

² Bag Valve Mask

The Postmortem Examination To/From dated 21, September, 2014 indicated that Doctor B did not discover any obvious signs of trauma. Doctor B stated that the cause and manner of death was inconclusive pending toxicology results. In her concluding diagnoses, Doctor B, Assistant Chief Medical Examiner, opined that Subject 1 died of bronchial asthma. The associated toxicology report shows that Subject 1 had a concentration of 310 ng/ml of Albuterol in his system at the time of his death. Albuterol is the active amine used to treat asthma via a pump-inhaler. According to the toxicology report, a single dose of 4mg of Albuterol surmounts to two pumps from the inhaler. This dosage would result in an average blood concentration of 18 ng/ml. Based upon the information provided in the toxicology report and the medical examiner's report, it is reasonable to conclude that the concentration of Albuterol in Subject 1's system was nearly seventeen times the average for one dose. (Att. 9)

The Postmortem Examination Report of Subject 1 dated 20, September, 2014 indicates that the manner of death attributed to natural causes, specifically linked to bronchial asthma. The x-ray examination concluded that there were no skeletal abnormalities. The toxicology screening was positive for Albuterol. There were no other positive findings detected. (Atts. 18, 19)

The **Medical Examiner photographs** depict various pictures of Subject 1's body and multiple items found on his person. (Att. 17)

Cell Phone Video Footage recorded by and obtained Civilian 4 depicts Subject A sitting on a stair chair and being escorted to the back of an ambulance by several CFD personnel. A male voice can be heard asking, "why are his pants still down?" A female voice responds, "because they would not let him pull them up." The same female can also be heard saying "don't worry, okay."

Throughout the video, several other people can be heard talking in the background, but it is unclear as to what is being said. (Att. 91)

Cell Phone Video Footage recorded by and obtained from Civilian 5 depicts several black males on a basketball court playing basketball. A black male, now known as Civilian 6, can be seen walking toward a marked CPD Chevy Tahoe. Civilian 6 can be heard stating "Man he can't breathe, they didn't give him his asthma pump. They put him back there, and he is in handcuffs. How is he going to pump asthma for himself?"

Throughout the video, several people can be heard talking in the background but it is unclear as to what is being said. (Att.92)

Attempts to obtain contact information for Civilian 5, "Civilian 7," "Civilian 8," and "Civilian 9" were met with negative results. During the interview with IPRA, Civilian 4 stated that "Civilian 8" was also present during this incident. Civilian 4 stated she has not been able to contact "Civilian 8" since this incident. Civilian 4 further stated that the attorneys for Subject 1's family were also unable to contact "Civilian 8."

During the interview with IPRA, Civilian 6 stated that "Civilian 9," "Civilian 5," and "Civilian 7" were all present during this incident. Civilian 6 stated that he would contact IPRA with contact information for "Civilian 9," "Civilian 5," and "Civilian 7." Civilian 6 stated that "Civilian 5" and "Civilian 7" were both incarcerated at that time.

Civilian 6 provided no identifying information for "Civilian 9," "Civilian 5," or "Civilian 7," such as the correct spelling of their names, phone numbers, current and/or previous addresses, or any other pertinent information that would help locate said witnesses. Civilian 6 did not respond to several follow-up messages. To date, Civilian 6 has not provided any information regarding "Civilian 9," "Civilian 7" or "Civilian 5." (Att. 93)

A **canvass** of the vicinity of the incident produced no additional information. (Att. 57)

Subject 2 called IPRA on 22, September, 2014, and stated that Subject 1 was her nephew. Subject 2, who was not a witness to the incident, stated that she was told that, while Subject 1 was having an asthma attack, the police officers were "taunting him" with his inhaler. Subject 2 further stated that she would contact IPRA with the names of the witnesses. Subject 2 alleged that the police were responsible for Subject 1's death because they failed to summon immediate medical attention for him. Subject 2 requested that the POD video located on the corner where the incident occurred be preserved. (Att. 7)

The **Police Observation Device (POD)** in close proximity to the location of incident is POD #XXXX, located at XXXX W. Lexington Avenue. The POD video footage was requested by Investigator A on 20, September, 2014 and the request was approved by IPRA Supervisor A on XX, XXXXX, 2014. In response to the POD request by IPRA, it was learned that the OEMC Public Safety IT Unit received IPRA's request and forwarded the work order to the unit that performs the download of any available video. No video was ever obtained and no response to the request was received by IPRA. (Atts. 28, 87, 89)

A search for **In-Car Camera Video** for Beat XXXX, vehicle #XXXX, regarding RD# XXXXXXXX was conducted and no video footage was located. A Supervisor's Management Log, authored by Sergeant A, dated 20 September 2014, documents that the In-Car Camera in vehicle #XXXX, driven by Officers A and B, was inoperable and ticket #XXXXXXX was generated. (Atts. 16, 95)

Inventory Sheets indicate that \$X,XXX.XX in U.S. currency was recovered from Subject 1, and documented under inventory number 13274451. (Att. 13)

An **Attendance and Assignment Record** for the date in question was obtained which indicated that Officer's B and A were working the XXX watch from XXXX hours- XXXX hours. The officers were assigned to Beat XXXX. The report further indicated that Sergeant A worked the XXX watch from XXXX hours- XXXX hours. Sergeant A was assigned to Beat XXXX. (Att. 14)

In **Civil Suit #XXXXXXXX**, filed on behalf of the Estate of Subject 1, it was alleged that Officer B, Officer A, and Sergeant A, failed to provide Subject 1 with medical attention. On 7, April, 2016, a motion was filed seeking to dismiss Sergeant A as a defendant, without prejudice. (Atts. 41, 42)

CIVILIAN WITNESSES

In a **deposition** on 03, June, 2015 and in an **interview with IPRA** on 28, April, 2016, **Civilian 10** stated that she has known Subject 1 since he was 12 years old. According to Civilian 10, on the date and at the time in question, she exited her residence and saw Subject 1's car parked in the alley by her house. Civilian 10 saw several children playing in the area who told her that the police were chasing someone they knew as, "Subject 1 who drives the XXXX car." Civilian 10 observed two white uniformed officers walking out of the alley by the basketball court, escorting Subject 1 towards their marked Chevy Tahoe (hereinafter the "CPD Tahoe").

Civilian 10 stated that Subject 1 was handcuffed behind his back and his pants were hanging below his waist. Civilian 10 saw the officers place Subject 1 against the CPD Tahoe, where he was standing, but slightly "slumped" forward. Civilian 10 stated that it appeared to her that Subject 1 could not catch his breath. Civilian 10 attributed Subject 1's stance as someone who had been running and was out of breath. Civilian 10 stated that the officers were not breathing as heavily as Subject 1 was. Civilian 10 overheard Subject 1 ask for his inhaler because he could not breathe. The taller officer responded by telling Subject 1 to "Shut the fuck up. If you knew you could not breathe why did you run?" The taller officer then removed Subject 1's inhaler from his pocket and gave Subject 1 two pumps of his inhaler. Civilian 10 could see Subject 1 inhale, though it appeared to her that he still had trouble breathing.

Civilian 10 stated that Subject 1 asked the officers for his inhaler again because he could not catch his breath. The taller officer replied, "shut the fuck up. If you knew you could not breathe and you knew you had asthma, what the fuck you running for?" Civilian 10 stated that she then heard Subject 1 ask the officers to call for an ambulance. Subject 1 was placed in the back seat of the CPD Tahoe, at which time Subject 1 yelled, "I can't breathe." According to Civilian 10, from her vantage point by her gate at the end of the alley, she could clearly see the officers and Subject 1, and could overhear their conversation.

Civilian 10 stated that several of Subject 1's friends appeared on scene. "Civilian 4" walked up from one direction, while "Civilian 6" and "Civilian 5" came from the basketball court. Civilian 10 stated to Subject 1's friends, "Subject 1 cannot breathe. He keeps asking for help." Civilian 5 stated to Civilian 10, "Subject 1 has really bad asthma."

Civilian 10 stated she did not have a cell phone but told Subject 1's friends to call for the ambulance. According to Civilian 10, Subject 1's friends told her that Subject 1 suffered from asthma and had previously been hospitalized due to his asthma. Civilian 10 stated that she observed the entire incident while standing outside by her gate. However, once Subject 1 was placed in the back seat of the CPD Tahoe she could not see if Subject 1 was laying down or sitting up because the windows were tinted.

Civilian 10 saw Sergeant A arrive on-scene and speak with the officers. Sergeant A exited his vehicle, walked to the CPD Tahoe, and opened the back door to speak with Subject 1. Civilian 10 stated Sergeant A appeared upset because he put his head down and shook his head while closing the door. Sergeant A went back to his squad car and got on the radio. Moments later, a Chicago Fire Department (CFD) truck arrived in the area, but drove past the location. Officer A flagged down the CFD vehicle and waved them over to the police vehicle in which Subject 1 was sitting.

Civilian 10 stated that CFD opened the door to the Tahoe and checked Subject 1 vital signs. Within moments, CFD paramedics arrived on scene and assumed the evaluation of Subject 1. Subject 1 was removed from the Tahoe, placed on a stair chair, and placed inside the ambulance. Civilian 10 never saw a mask on Subject 1's face. Civilian 10 saw Subject 1's eyes appear to "go back in his head."

Civilian 10 estimated that the ambulance stayed on-scene for approximately ten minutes. Civilian 10 saw Sergeant A put up yellow and red tape and she assumed it was now a crime scene.

Civilian 10 stated that she did not witness any officer taunt Subject 1 with his inhaler. Civilian 10 stated that she witnessed the taller officer give Subject 1 two pumps of his inhaler. Civilian 10 heard

³ Statement of Civilian 10, Att. #45, Page 14, Lines

"Civilian 6" say "Get the man some help." Civilian 10 also heard "Civilian 4" say, "I can't believe this. I can't believe this." According to Civilian 10, it was approximately 30 to 45 minutes from the time she saw Subject 1 being walked over to the CPD Tahoe and the arrival of the CFD Fire Engine. (Atts. 45, 79)

In a **deposition** on 01, July, 2015 and in an **interview with IPRA** on 28, April, 2016, **Civilian 11** stated that he has known Subject 1 his entire life. According to Civilian 11, on the date and at the time in question, he had just left work when he observed and heard police cars going southbound on Pulaski Avenue and then eastbound into the XXXX block of Polk Street. Approximately two minutes later, Civilian 11 looked eastbound into the alley and observed a person on the ground, with two police officers in close proximity to him. Civilian 11 stated that the taller of the two officers had his knee on the person's back while he was on the ground. Civilian 11 stated that the officers picked the person up off the ground and that is when he realized it was Subject 1.

Civilian 11 stated that Subject 1's pants were down around his ankles when he got up from the ground. According to Civilian 11, when Subject 1 saw Civilian 11, he yelled out "Civilian 11, tell them I'm having an asthma attack. I need my inhaler." Civilian 11 told the officers to give Subject 1 his asthma pump. The officer then reached inside of Subject 1's pocket, pulled out his inhaler, and squirted it twice in the air. The officer told Subject 1 "you should have thought about that before you ran."

Civilian 11 stated that Subject 1 was having an asthma attack while the officers "drag-walked" him eastbound down the alley. The officers had their arms under Subject 1 as they walked him down the alley. Civilian 11 believed the officers thought Subject 1 was joking about having asthma. The officers brought Subject 1 to the "T" part of the alley and placed Subject 1 inside of the CPD Tahoe. Civilian 11 stated that he did not see Subject 1 anymore but he did see the officers and Sergeant A in the alley approximately five minutes later.

Civilian 11 stated he did not see anything else because he was already in the back of his house. Civilian 11 stated that he called Subject 1's brother, Civilian 12. Civilian 11 stated that he did not observe any officer hit Subject 1. Civilian 11 stated he observed the shorter of the two officers taunt Subject 1 by squirting his inhaler twice in the air instead of giving it to him. Civilian 11 stated that he received a call approximately 10 or 15 minutes later and learned that Subject 1 had died. According to Civilian 11, there were several people outside when the incident occurred but he did not see anyone in particular that he could identify. Civilian 11 went on to say that Sergeant A is known in the neighborhood as the "terrorist" because he terrorizes everybody in the neighborhood.

During Civilian 11's deposition, he was shown two videos. The first video was approximately ten seconds in length, and depicted Subject 1 on a stair chair and being escorted to the ambulance. A female voice can be heard in the background. However, during the deposition, Civilian 11 stated that he did not recognize the female's voice. Regarding the second video, Civilian 11 identified Civilian 6 as the man on the basketball court. Civilian 11 stated that he was unaware that Civilian 6 was present at the time of the incident until he watched the video.⁴ (Atts. 40, 79)

In a **deposition** on 29, July, 2015 and in an **interview with IPRA** on 20 April 2016, **Civilian 4** stated that she received a call from her older brother, "Civilian 13," asking her to go check on Subject 1, who was near the basketball court near XXXX W. Lexington Avenue. When Civilian 4 arrived to the location, she observed two white male officers in uniform with Subject 1, who was seated in the backseat of a squad car. Civilian 4

⁴ Deposition of Civilian 11, Att. 79, P. 101,
Lines 1-23

stated the shorter officer was holding Subject 1's inhaler and said to Subject 1, "this what you want?" referring to the asthma pump. Subject 1 replied "yeah" and then Subject 1 informed the officer that he could not breathe. The officer closed the door with the windows raised up, while Subject 1 was seated in the backseat. According to Civilian 4, the shorter officer never gave Subject 1 his inhaler.

While Subject 1 was in the backseat with the door closed, Civilian 4 could hear him saying, "I can't breathe." According to Civilian 4, she believed the officers were teasing Subject 1 with his inhaler. Sergeant A arrived on the scene, opened up the squad car door where Subject 1 was seated and shook his head and then closed the door. Civilian 4 stated she called for a paramedic after ten minutes because Subject 1 was still yelling from the backseat of the squad car. When the paramedics arrived on scene, Subject 1 was removed from the squad car, placed on a stair chair, and transported to the ambulance. Civilian 4 stated that she began recording the incident on her cell phone. Once the paramedics got Subject 1 into the ambulance, they attempted to resuscitate him. Civilian 9 said that the shorter officer gave the paramedics the inhaler, and they gave Subject 1 two pumps from the inhaler, but it did not appear to be effective.

Civilian 4 reported that Civilian 6, Civilian 5, Civilian 11, Civilian 10 and Civilian 8 (NFI) were present during the incident. (Atts. 38, 79)

In a **deposition** on 27, July, 2015 and in an **interview with IPRA** on 20, April, 2016, **Civilian 6** stated he was standing in the XXXX block of Lexington Avenue talking on the phone when he observed Subject 1 and another male running down the alley, fleeing from the police. The police caught Subject 1 and detained him in the gangway of XXXX W. Lexington Avenue, which is across the street from where Civilian 6 was standing.

Civilian 6 heard Subject 1 saying, "I give up. I give up." Subject 1 resisted and the officers placed Subject 1 in handcuffs. Civilian 6 stated that Subject 1's pants were falling down. Both officers escorted Subject 1 down the alley towards the basketball court where the squad car was located. Civilian 6 saw the officers place Subject 1 against the trunk of the CPD Tahoe, search Subject 1, then place Subject 1 inside the squad car. Civilian 6 stated that, at that time, he and his friend started to record the officers on their cell phones.

Civilian 6 observed the shorter officer as he searched Subject 1's car; it did not appear to Civilian 6 that the officer found anything. The taller officer told the other officer to look again and he did. According to Civilian 6, at that time, the CPD Tahoe windows were down and he heard Subject 1 yell, "I can't breathe. I need my inhaler. Subject 1 told the taller officer where to find his inhaler. The taller officer retrieved Subject 1's inhaler from Subject 1's car, and showed Subject 1 the inhaler through the cage inside the squad car. Civilian 6 stated that the taller officer squirted the inhaler at the cage instead of giving it to Subject 1.

Civilian 6 claimed that he could see the mist come out of the inhaler. According to Civilian 6, he then saw the taller officer squirt the inhaler twice in the air. Civilian 6 then saw both officers remove Subject 1 from the squad car; it appeared that Subject 1 could not stand on his own. Civilian 6 observed the officers talking to Subject 1 while holding him up. Civilian 6 stated that the basketball court is by the gate next to the alley, which was next to the CPD Tahoe. Civilian 6 stated that he was approximately ten feet away from the officers and Subject 1. Civilian 6 stated that he only saw Subject 1's right shoulder when he was standing outside the squad car. Subject 1 was outside of the squad car for a minute or two before the officers sat him down inside the squad car. Civilian 6 noted that Subject 1 was handcuffed with his hands behind his back.

Civilian 6 stated that shortly after Subject 1 was placed back in the squad car, Sergeant A and other officers arrived on scene. C stated that he never saw Sergeant A go to the squad car to speak with Subject 1

⁵ Statement of Civilian 6, Att. 39, P.6, Line 5

but he did see Sergeant A talk to the officers. Civilian 6 stated that, moments later, Sergeant A and the other officers left the area. Civilian 6 stated he left the basketball court and walked west on XXXX Street towards Pulaski Road. Civilian 6 stated the passenger door on the driver's side of the squad car was open and he saw Subject 1's feet hanging out as if he was lying down across the backseat.

Civilian 6 stated that "Civilian 7," who is in jail, and "Civilian 9" told him that the police hit Subject 1. Civilian 6 stated he would get contact information for both witnesses and contact IPRA. Civilian 6 further stated that "Civilian 5" is also in jail.

Civilian 6 stated that the officers looked like "they were rookies" because they did not appear to know what they were doing. Civilian 6 believed that if the officers were more experienced they would have gotten medical attention for someone who said they could not breathe. (Atts. 39, 79)

CHICAGO FIRE DEPARTMENT PERSONNEL

In an **interview with IPRA** on 6, April, 2016, **Witness Paramedic Paramedic A** stated that, when he arrived on scene, Subject 1 was receiving a breathing treatment from members of CFD Engine #XX. The FF/Paramedic from CFD Engine #XX stated to Paramedic A that Subject 1 told the paramedic that he was having trouble breathing. Paramedic A stated that the CFD crew initially suspected a possible opiate overdose based on Subject 1's shallow respiration. Paramedic A initially believed Subject 1 was under the influence of heroin, as he appeared lethargic and slow in his responses. Paramedic A stated that, based on his experience, heroin is a known trigger for asthma, leading him to consider that as a possible cause of Subject 1's current state.

Paramedic A stated that Subject 1 did not appear to be in immediate distress. Paramedic A stated that an (unidentified) police officer told him that he had assisted Subject 1 with his nebulizer between ten and fifteen times. Paramedic A took over and, with the assistance of CPD, escorted Subject 1 out of the backseat of the squad car, onto a stair chair, and into the ambulance. Subject 1 was handcuffed in the front and an officer on scene took the handcuffs off Subject 1 once he was inside the ambulance and placed on a stretcher.

Paramedic A stated that Subject 1 was making eye contact with him and saying, "I can't breathe." Paramedic A stated that, once he was inside the ambulance, Subject 1's status began to decline and he became less responsive. Paramedic assisted Subject 1 with his respiration with a bag-valve mask. When Subject 1 was placed on a cardiac monitor, it was determined that Subject 1 heart rate was slowing. Paramedic A could no longer detect a pulse and CPR, including chest compressions, was initiated.

Paramedic A administered an IV and intubated Subject 1. According to Paramedic A, Subject 1 went into Cardiac Arrest at which point Paramedic A administered three rounds of Epinephrine while in route to XXXXX Hospital. Paramedic A stated that Subject 1 was pronounced deceased shortly after arriving at the hospital.

Paramedic A stated that he did not observe any officer mistreat or taunt Subject 1 with an inhaler, nor did he see anyone holding Subject 1's inhaler during this incident. Paramedic A stated that the only people in the alley were police and fire personnel. Paramedic A recalled that when they were placing Subject 1 into the ambulance, he observed a female bystander that seemed to know Subject 1. Paramedic A stated that he did not see a crowd of people in the area, although there was a large group of people who arrived

at the hospital that were inquiring about Subject 1. Paramedic A recalled that people in the group were commenting that the police waited too long to call for the ambulance.

Paramedic A stated that this incident seemed "like a standard run," that quickly turned serious when Subject 1 condition declined. Paramedic A stated that he did everything he could to try and help Subject 1. (Atts. 24, 35, 82)

In an interview with IPRA on 6, April, 2016, **Witness Paramedic B** stated that he and his partner, Paramedic A, responded to a call for a person with difficulty breathing. Paramedic B stated that, upon their arrival, CFD Engine #38 was already on scene and treating Subject 1. The door of the squad car was open and Subject 1 was sitting in the backseat with his feet on the ground. Subject 1 had a mask on that was dispensing nebulized Albuterol. Subject 1 was removed from the squad car, transferred to a stair chair, and placed inside of the ambulance.

Paramedic B observed that Subject 1's condition was deteriorating, as he began to lose consciousness and he suffered from labored breathing. Subject 1 was placed on a cardiac monitor, revealing that his heart rate was decelerating. Soon after, Subject 1 went pulseless and fell into cardiac arrest.

Paramedic B recalled that there were approximately five to ten bystanders on scene in addition to CPD and CFD personnel. Paramedic B stated that the bystanders were approximately twenty feet away from the squad car where Subject 1 was sitting. Paramedic B stated that he did not recall Subject 1 saying anything to him.

Paramedic B stated that they were on scene for approximately 22 minutes. Paramedic B stated that he did not witness any officer taunt Subject 1 with his inhaler nor did he witness any police misconduct. Paramedic B stated that Paramedic A authored the Ambulance Report. (Att. 37)

In an interview with IPRA on 6, April, 2016, **Witness Firefighter A** stated that he is a Firefighter and Paramedic. FF/Paramedic A stated his team responded to the call of a person suffering an asthma attack near XXXX W. Polk Street. FF/Paramedic A stated that they initially went to the wrong address. FF/Paramedic A stated that they notified the main fire alarm office and told them no one was answering the door and to call back with more information. The main fire alarm office called back and stated the correct address was in an alley a half block further east from where they were located.

FF/Paramedic A stated that they got their equipment and walked over to where they observed police activity. FF/Paramedic A observed that the police had Subject 1 in the back seat of their squad car and that he was having an asthma attack. The officers informed FF/Paramedic A that Subject 1 had attempted to run away from the police and was now under arrest. FF/Paramedic A spoke with Subject 1, who stated, "I got asthma. I cannot breathe. I need my pump." FF/Paramedic A stated that he knew Subject 1 was in distress based upon the manner in which he was speaking. FF/Paramedic A stated that he did not see an inhaler.

FF/Paramedic A stated that Subject 1 coherent and was able to speak, although he appeared to be suffering moderate respiratory stress. FF/Paramedic A gave Subject 1 an Albuterol treatment and checked his vitals. FF/Paramedic A stated that Subject 1 appeared to breathe a little easier once the mask was placed over his mouth. FF/Paramedic A recalled that they treated Subject 1 for approximately one minute before the ambulance arrived. FF/Paramedic A stated they transferred the care of Subject 1 to the ambulance personnel.

FF/Paramedic A noted that they had arrived on scene within approximately three to four minutes of the initial call being dispatched. FF/Paramedic A stated he did not recall any officer telling him that Subject 1 was given his inhaler. FF/Paramedic A stated this incident took place during the middle of the day and there were many people around. According to FF/Paramedic A, the crowd was approximately ten to fifteen feet away from him and Subject 1.

FF/Paramedic A stated that a police officer came to the firehouse later that evening and questioned him about the incident. FF/Paramedic A recalled that the officer asked him if he saw an inhaler during the incident. FF/Paramedic A told the officer that he did not see an inhaler during this incident. (Att. 36)

In an **interview with IPRA** on 21 April 2016, **Witness Firefighter B** stated that he did not recall this incident due to the high volume of calls they receive daily regarding asthma attacks. (Att. 44)

In an **interview with IPRA** on 21 April 2016, **Witness Lieutenant Firefighter A** stated that they were given an address for an asthma attack. Lieutenant A stated they went to the address given and no one from that address called for them. Lieutenant A recalled that a female walked up to them and informed them that the person who needed their assistance was in the alley.

Lieutenant A stated that he observed Subject 1, whose hands were placed in handcuffs in front of him, seated in the backseat of a squad car with the doors open and his feet on the ground. Subject 1 was sitting upright by himself, however at one point he fell backwards and Lieutenant A assisted him back up. Subject 1 appeared to be in slight distress but alert. Lieutenant A recalled that Subject 1 was not struggling to breathe, but was short of breath.

Lieutenant A stated he could not recall if Subject 1 said anything. A nebulizer treatment was initiated on Subject 1. A mask was placed on Subject 1 and he was hooked up to oxygen. Lieutenant A stated that he could not recall specifically if Subject 1 was wheezing or panting but he assumed as much, as he was given an Albuterol treatment. Lieutenant A stated that he saw two police officers on-scene but did not speak with them.

Lieutenant A said he did not recall seeing an inhaler nor did he remember being told that Subject 1 had an inhaler. Lieutenant A stated that the scene was controlled and he did not hear anyone yelling nor did he see many people. Lieutenant A stated that he did not observe any officer mistreat or taunt Subject 1 with his inhaler. (Att. 46)

In an **interview with IPRA** on 18 May 2016, **Witness Firefighter EMT C** stated that his team responded to the scene and the address they were given was incorrect. FF/EMT C stated that he saw a lot of commotion and multiple police cars, and a female standing in the middle of the street yelling. FF/EMT C stated that people were waving them over. FF/EMT C stated that an officer pointed to Subject 1, who was sitting in the backseat of a police car with the door open. CFD personnel attended to Subject 1, who related that he had asthma and he was having difficulty breathing. FF/EMT C gave Subject 1 an Atrovent and Albuterol treatment. FF/EMT C stated that he could not recall if Subject 1 experienced any relief from the treatment. FF/EMT C went on to explain that he responds to a great number of calls involving persons suffering from asthma and/or general problems breathing, and therefore frequently administers Atrovent and Albuterol treatments.

FF/EMT C stated that, shortly thereafter, the ambulance arrived and Subject 1 was transferred from the squad car, to the stair chair, and into the ambulance. FF/EMT C stated that he did not see an inhaler

nor did Subject 1 say the officers gave him his inhaler. FF/EMT C stated that he did not witness any officer taunt Subject 1 with his inhaler nor did he observe any officer physically mistreat Subject 1. (Att. 80)

POLICE OFFICER STATEMENTS

In a **deposition** on 20, March, 2015, and in an **interview with IPRA** on 31, March, 2016, **Witness Sergeant A** stated that he was a field sector sergeant working Beat XXX on the day of this incident. Sergeant A stated that he responded to a request for a supervisor by Beat XXXX, Officers A and B. Sergeant A stated that he proceeded to XXXX Street and XXXX Avenue.

According to Sergeant A, when he arrived, he was met by Officer A, who was standing in the alley. Officer A told Sergeant A that he needed guidance on how to inventory a large sum of money that had been recovered from Subject 1, which was in excess of \$1000.00. Officer A wanted to know if he should inventory the money or consider it for asset forfeiture purposes. Sergeant A stated that he would need to speak with the arrestee before he could offer an opinion. Sergeant A stated that he and Officer A proceeded to the squad car where Subject 1 was located.

Sergeant A opened the back door and tried to engage Subject 1 in conversation, at which time he noticed Subject 1 was having difficulty breathing. Sergeant A observed that Subject 1 was sweating and appeared to be short of breath. Sergeant A stated that Subject 1 was not wheezing or gasping for air. Subject 1 informed Sergeant A that he had asthma and needed his inhaler.

Sergeant A stated that, prior to Subject 1 mentioning his asthma, he had no knowledge of his condition. According to Sergeant A, he asked the officers, "Do we know anything about an asthma pump?" Officer A removed the pump from his pocket and then administered the inhaler to Subject 1 by placing the inhaler in Subject 1's mouth and depressing the pump for him.

Sergeant A closed the squad car door and talked to the officers to find out more information, and details about the stop. After a brief conversation with the officers, Sergeant A opened the car door to again check on Subject 1. Sergeant A found that Subject 1 now appeared to be in slightly more distress, as he was having difficulty catching his breath and was now rocking his body back and forth.

Sergeant A removed Subject 1's handcuffs to allow him to be in a more comfortable position. Subject 1 asked for his inhaler and Officer A gave it to him. Subject 1 administered the inhaler to himself. According to Sergeant A, he did not see any improvement in Subject 1, so he called for an ambulance. While waiting for the ambulance, Sergeant A opened the other car door and allowed Subject to put his feet on the ground, in an effort to make him comfortable. Subject 1 told Sergeant A that he needed help, to which Sergeant A replied, "Hang in there, the ambulance is coming."

Sergeant A recalled that a CFD fire engine arrived in the area, although it initially went to the wrong location. After a short delay, they came to the alley where Subject 1 was located. CFD personnel started to administer their own apparatus as they treated Subject 1, with the ambulance arriving within moments. Sergeant A stated that Subject 1 leaned over in the backseat of the squad car and had to be assisted out of the squad car by police and the paramedics. Sergeant A recalled that Subject 1 was placed inside of the ambulance and was eventually transported away from the area.

Officer B walked Sergeant A through their stop of Subject 1's vehicle, and through his subsequent flight path. While walking through the flight path, Officer B and Sergeant A discovered a firearm and the keys to Subject 1's vehicle, apparently discarded by Subject 1 during his flight.

While still on-scene, Sergeant A was notified that Subject 1 had become unresponsive and ultimately died. At that time, additional personnel were called to the area and the death investigation was initiated.

Sergeant 1 stated that he did not witness any officer taunt Subject 1 with his inhaler and Subject 1 never alleged that he was taunted with his inhaler. Sergeant 1 stated that Subject 1 pump was inventoried which became part of the evidence. (Atts. 27, 43)

In a **deposition** on 05, August, 2015, and an **interview with IPRA** on 23, April, 2015 and 10, August, 2016, **Accused Officer B** stated that he and his partner, Officer A, were traveling eastbound on Arthington Street from Pulaski Avenue when a XXXX XXXXX heading southbound on Springfield Avenue failed to stop at the stop sign at the corner of XXXXX Avenue and Arthington Street. Officer B told Officer A "Let's get behind this, and get the plate number." As the officers drew closer, the XXXXX accelerated eastbound towards Independence Boulevard, and then turned northbound in the alley just west of Independence Boulevard. The XXXXX continued westbound on Polk Street from the alleyway and turned northbound in an alley next to the basketball court at XXXX Street and XXXX Avenue, where it came to a stop.

Officer B stated that Subject 1 and another unidentified male quickly exited the car and fled on foot. The officers stopped their vehicle behind the XXXX and ran after Subject 1 and the second male, who were running westbound down the alley. The second male jumped over a nearby fence and successfully escaped. Officer B and Officer A continued to pursue Subject 1 into the gangway.

Officer B stated that Subject 1 stopped running when he reached a fence that he apparently could not climb or jump over. Subject 1 was placed in handcuffs and Officer B ran back to ensure that Subject 1's car and the officer's squad car were both secure. Officer A and Subject 1 walked back to the squad car. Officer B stated that Subject 1 stated that he wanted to stand outside of the squad car but Officer B could not remember if he said why. The officers allowed Subject 1 to stand outside of the squad car.

Officer B stated that he, Officer A, and Subject 1 were all breathing heavily after running and they all needed to catch their breath. Officer B stated that they were talking to Subject 1, who was providing them with his information. Officer A searched Subject 1 and found a large sum of money on his person. Sergeant A was called to the scene and Officer B began to search Subject 1's vehicle.

Officer B stated that he was running the VIN number on Subject 1 vehicle while Subject 1 and Officer A were standing outside the squad car but could not recall if Officer A and Subject 1 were engaged in conversation. After several minutes, Subject 1 stated that he was okay and wanted to sit down. Officer A placed Subject 1 inside of the squad car. Officer B stated that Subject 1 asked for his inhaler that was located in his pocket. Officer A retrieved the inhaler from Subject 1's pocket and administered the pump to Subject 1. Officer B stated that Subject 1 appeared to experience some relief from the inhaler.

Officer B stated that Sergeant A arrived on scene, spoke with him and Officer A, and then spoke with Subject 1. Sergeant A then called for an ambulance. Officer B stated that Sergeant A removed Subject 1's handcuffs and Subject 1 was allowed to use his inhaler.

Officer B stated that he never had any direct conversation with Subject 1. Officer B stated that Subject 1 did not fall during this incident. Officer B stated that Officer A walked Subject 1 back to

the squad car without incident. Officer B stated that he never touched Subject 1's inhaler. He further stated that every time Subject 1 asked for his inhaler it was given to him. Officer B stated that he never saw anyone taunt Subject 1 with his inhaler. Officer B stated that Subject 1 never lost consciousness and did not appear to be in any distress. (Atts. 21, 23, 51, 56)

In a **deposition** on 16 June 2015, and an **interview with IPRA** on 30 April 2015 and 10 August 2016, **Accused Officer A** stated that he and his partner, Officer B, were traveling eastbound on XXXXX Street from Pulaski Avenue when they observed a white XXXXX disregard a stop sign at the intersection of XXXXX Street and Springfield Avenue. The officers activated the emergency equipment on their vehicle and the XXXX, driven by Subject 1, disregarded the emergency equipment. Subject 1 continued to drive westbound and then stopped in the west alley of Springfield Avenue and Polk Street. The doors opened and Subject 1 and another passenger proceeded to flee. Officer's A and B exited their vehicle and gave chase westbound through the alley.

Officer A stated that Subject 1 ran westbound through the north alley of Polk Street. The passenger made his escape through a gangway going northbound. The officers continued to chase Subject 1. Subject 1, whose pants had fallen down, ran into a gangway with a locked fence so he could not run any further, Officer A told Subject 1 to put his hands up and he did. Officer A told Subject 1 to put his hands behind his back at which time Officer A handcuffed Subject 1. Subject 1 did not resist and let Officer A handcuff him without incident. Officer A stated that there was no emergency handcuffing or takedown. Officer A stated that Subject 1 never fell in his presence. Officer A stated they never used any force on Subject 1.

Officer B left Officer A and Subject 1 in the alley and ran back to the squad car to turn it off and remove the keys from the ignition. Officer A instructed Officer B to secure Subject 1's vehicle as well. Officer A walked Subject 1 out of the gangway into the alley. While walking, Subject 1 told the officer that he had asthma, needed to catch his breath, and asked for his inhaler. Officer A removed Subject 1's inhaler from his pocket and gave him one to two puffs while they were walking eastbound down the alley. Officer A stated that nothing seemed out of the ordinary about Subject 1 stating he needed to catch his breath because they had just sprinted a block. Subject 1 did not exhibit any distress nor was he gasping for air.

Officer A asked Subject 1 why he ran. Subject 1 responded but Officer A could not remember any specifics as to what Subject 1 said. Officer A stated that he and Subject 1 had a conversation, although he could not recall the details of the conversation. Officer A stated that the two puffs of his inhaler seemed to be sufficient in providing relief to Subject 1 at the time. Subject 1 spoke clearly and was not breathing heavily during his conversation with Officer A.

Once back at the squad car, Officer B searched Subject 1's vehicle. Officer A was standing next to the squad car on the driver's side talking to Subject 1 at which point Subject 1 asked Officer A if he could stand outside the vehicle to catch his breath. Officer A allowed Subject 1 to do so. Subject 1 asked for his inhaler again and Officer A gave him one or two more puffs. Subject 1 stated he was okay. Officer A stated that Subject 1 experienced some relief and was able to catch his breath.

Officer A stated that Subject 1 continued to talk to Officer A. Subject 1 provided Officer A with his name and identifying information. After running Subject 1's name, it was discovered that Subject 1 had a suspended driver's license. Officer A did a full custodial search of Subject 1 and found

approximately \$XXXX.XX in small bills. Officer A went over the police radio to call for his sergeant to respond, as he was unsure how to proceed with inventorying that amount of money.

The officers placed Subject 1 in the back of the squad car on the driver's side. Subject 1 indicated to Officer A that he was okay and his inhaler had given him some relief. Sergeant A arrived within a minute or two, and Officer A spoke with Sergeant A briefly, providing him with a narrative of what happened thus far.

Officer A recalled that Sergeant A stood at the rear driver's side door and spoke with Subject 1. Officer A stated he stood off to the side and Officer B was somewhere in the vicinity. Sergeant A noticed Subject 1 was responding slowly to his questions, and beginning have difficulty in maintaining a normal breathing pattern.

Officer A stated that he had not previously mentioned Subject 1's asthma to Sergeant A, as Subject 1 did not appear to be in any significant distress up until that time. Sergeant A and Officer A went to the other side of the vehicle to talk, at which point Subject 1 asked if he could be handcuffed in the front to get some relief. Subject 1 was handcuffed, with his hands in front of him and was given his inhaler to administer it to himself.

Officer A stated that Sergeant A observed that Subject 1 inhaler did not appear to be providing him with adequate relief; Sergeant A called for an ambulance. The officers told Subject 1 that the ambulance was on the way, and that he would be okay. Officer A recalled that Subject 1 was still slow in his responses but was talking and never gasped for air. Subject 1 continued to talk but was having trouble catching his breath. The fire engine arrived nearby and Officer A flagged them down and directed them over to Subject 1.

Officer A stated that CFD personnel had a conversation with Subject 1 and a mask was placed over his mouth. Subject 1 physically took the mask off of himself as if he did not want it. The ambulance arrived and the paramedics took over. Subject 1 was placed on the stair chair and brought into the ambulance. Officer A entered the ambulance with Subject 1.

Officer A rode with Subject 1 in the ambulance, where he observed the paramedics working on Subject 1. Officer A observed the paramedics give Subject 1 chest compressions after Subject 1 appeared to lose consciousness. Officer A stated that Subject 1 was transported to XXXXX Hospital where the emergency room staff continued to work on him. Subject 1 was pronounced deceased shortly thereafter. Officer A called Officer B to let him know that Subject 1 was deceased.

Officer A noted that he, Officer B, and Subject 1 were out of breath after the initial foot chase. Officer A stated that it took him a minute to establish a normal breathing pattern after running after Subject 1. Officer A stated that he was sweating profusely and so was Subject 1. Officer A stated that Subject 1 was fully compliant once he was apprehended. Officer A stated he did not taunt Subject 1 with his inhaler nor did he witness any officer taunt Subject 1 with his inhaler. Officer A stated that every time Subject 1 asked for his inhaler it was given to him.

Officer A recalled that approximately seven to eight minutes elapsed from the time Subject 1 fled and when EMS was called. Officer A stated that Subject 1 exhibited no significant sign of distress whatsoever prior to Sergeant A arriving on scene.

Officer A stated that there were children playing basketball nearby, although they were not necessarily watching what was going on. Officer A did recall a female, and perhaps one or two more people, standing at the mouth of the alley. Officer A stated that no one was close enough to hear any conversation going on between he and Subject 1.

As to the allegation that Subject 1 was taunted with his inhaler, Officer A explained that people could have observed him handing Subject 1 his inhaler and then taking it back; this interaction could have been misinterpreted. Officer A was adamant that Subject 1 was provided with the inhaler any time he asked for it and was eventually allowed to use it himself. (Atts. 20, 22, 47, 55)

CONCLUSION**Officer A, #XXXXX and Officer B, #XXXXX Allegation #1:****Not Sustained**

IPRA recommends a finding of **Not sustained** for **Allegation #1**, that Officers A and B failed to provide Subject 1 with medical attention.

There are provisions within several Department directives outlining an officer's duty to obtain medical attention for an arrestee in that officer's control and care. General Order G03-02-02, entitled "Force Options," states that an arresting officer has a duty to "seek medical attention for an arrestee who has injuries or illnesses consistent with the procedures outlined in the Department directives entitled 'Processing Persons Under Department Control' and 'Hospitalized Arrestees.' Special Order S06-01 entitled, "Processing Persons Under Department Control" states that an arresting officer is responsible for notifying a supervisor if an arrestee is "has any visible injury." General Order G06-01-01, entitled "Field Arrest Procedures," states that: "kin the event that an arrestee requires immediate medical care, the arrestee will be transported to the nearest approved emergency room, as delineated by Department directive entitled 'Approved Medical Facilities,' prior to any further arrest processing."

The Department directives do not define the circumstances under which an arrestee "requires immediate medical care." When dealing with arrestees that may need medical attention, officers in the field are held to the Fourth Amendment's reasonableness standard. *Ortiz v. City of Chicago*, 656 F.3d 523, 530 (7th Circuit 2011). The severity of the medical condition under this standard need not rise to the level of objective seriousness and instead, the severity of the medical condition under this standard operates on a sliding scale in which there is a balance between the seriousness of the medical need with the arrestee's requested treatment. *Id.* at 531. The officer has a duty to respond reasonably to the arrestee's medical needs. *Id.*

Following the foot pursuit of Subject 1, Officer A and Officer B detained him and walked him back to their squad car. The officers would later state that they themselves were short of breath after the exertion from the foot pursuit, as was Subject 1, apparently. Officer A and Officer B related that there was nothing unusual about Subject 1's behavior or condition, as he was breathing in a manner consistent with their experience in other foot pursuits, with other people.

As the officers walked Subject 1 to their squad car, he informed them that he was asthmatic and requested his inhaler. Officer A retrieved Subject 1's inhaler from his pocket, and gave him two pumps from his inhaler. Officer A walked Subject 1 to his squad car, and allowed Subject 1 to stand alongside the vehicle while he continued to catch his breath. Upon his request, Officer A gave Subject 1 two more pumps from his inhaler.

To be sure, there are three witnesses who claim the officers refused to allow Subject 1 access to his inhaler. Civilian 11 was deposed as a witness in the civil suit regarding this event, and would later state that he saw one of the officers holding Subject 1's inhaler and squirting it in the air, although he admits that he left the area before this event concluded. Civilian 4 stated that she was a witness to this event. Civilian 4 stated that she saw one of the officers holding Subject 1's inhaler, but asserted that he did not however administer any pumps to Subject 1. Civilian 6 also claimed that he saw the officers squirting Subject 1's inhaler in the air and that they did not administer the inhaler to Subject 1. However, the statements

proved by each eyewitness make it clear that none of them witnessed the entirety of the interaction between the officers and Subject 1. It is entirely possible that the eyewitnesses were not present, not focused on Subject 1, or not in a position to see Subject 1 when the officers administered the inhaler or when Subject 1 administered it himself. Moreover, Civilian 10, who witnessed the entire incident and corroborated that the officers did administer Subject 1's inhaler to him, contradicts their accounts. Civilian 10 was also deposed as a witness in the civil suit regarding this event. Civilian 10 related that she has known Subject 1 since he was twelve years old. Civilian 10 is not by any means a witness who harbors bias toward the officers; even though she acknowledged that they administered the inhaler, she maintains that the officers did not fulfill their duty to seek medical treatment for Civilian 10.

Moreover, the medical evidence suggests that Subject 1 did receive dosages of Albuterol while they were in the officers' care. Given the level of Albuterol in Subject 1's system at the time of his death; the fact that the CFD EMT's only provided one 2.5 mg dose of Albuterol; and the fact that Emergency Room personnel at XXXX Hospital did not administer any Albuterol; it is more likely than not that, the presence of the chemical in Subject 1 system is a result of his inhaler being administered before CFD arrived. Whether it was through the officers providing Subject 1 with the pumps, or by Subject 1 using his inhaler himself, the preponderance of the evidence suggests that Subject 1 did in fact receive medical attention in this respect.

There is not a preponderance of evidence showing that Officers A and B were aware that Subject 1 was in sufficient medical distress to warrant calling an ambulance. According to Officer A, the use of Subject 1's inhaler, at least initially, appeared to relieve some of Subject 1's symptoms, as he and Subject 1 were having a conversation and his breathing did not appear labored beyond what would be typical of someone who had just been involved in a foot chase.

Officer A further explained that he continued to speak to Subject 1, gathering his identifying information, before sitting Subject 1 in his police vehicle. Officer A related that at that time Subject 1 specifically told him that he was, "okay." Officer A noted that it appeared to him that Subject 1 breathing had returned to a normal state.

Once Sergeant A arrived, Subject 1 expressed that he was again having trouble breathing. At that time, the officers repositioned his handcuffs to the front of his person, gave him his inhaler so that he could administer it to himself, and called for medical attention.

Officer A stated that CFD personnel had a conversation with Subject 1 and a mask was placed over his mouth. Subject 1 physically took the mask off himself as if he did not want it. The ambulance arrived and the paramedics took over.

The responding CFD paramedics, who have advanced medical training, all stated that although Subject 1 appeared to have labored breathing upon their arrival, he did not appear to be in immediate medical distress. It was not until Subject 1 was inside the ambulance that his condition dramatically worsened.

There are two questions at issue here: (1) whether the accused officers failed to allow Subject 1 access to his inhaler when he requested it; and (2) whether the accused officers were aware that Subject 1 needed professional medical attention and their failure to seek it for him was unreasonable.

In this instance, the evidence does not suggest that the officers did not respond reasonably to Subject 1 apparent medical needs. First, it was not obvious to the officers that Subject 1 was suffering from a sufficiently severe medical condition. In their statements, the officers likened Subject 1's appearance, behavior, and overall

condition to be consistent with someone who had just fled from the police and not with someone suffering from an acute and immediate medical condition. Additionally, the officers provided pumps of the inhaler to Subject 1 when he asked for the inhaler to be administered. The officers provided the inhaler to Subject 1 prior to the arrival of the Sergeant A or the paramedics. The investigation has shown that by the time Subject 1's need for immediate medical attention became apparent, the CFD ambulance was already on-scene and Subject 1 was under their care. According to the responding paramedics, upon their arrival, Subject 1 was talking to them, and although his breathing appeared labored and he was becoming lethargic, he did not initially appear to be in need of immediate medical care. The paramedics at first believed Subject 1 to be suffering from an opioid overdose, not an asthma attack. The responding medical professionals did not believe Subject 1 to be in serious medical distress.

The evidence suggests that the officers allowed Subject 1 access to his inhaler. Regarding whether or not the accused officers failed to seek medical attention for Subject 1, as outlined above, there is insufficient evidence to prove that the officers were aware that Subject 1 needed immediate professional medical attention and were unreasonable in their failure to seek it. As such, the allegation that the officers failed to seek medical care for Subject 1 is Not Sustained. Based on the above, the allegation against Officer A and Officer B is **Not Sustained**.

Officer A, #XXXXX and Officer B, #XXXXX Allegation #2:

Not Sustained

IPRA recommends a finding of **Not sustained** for **Allegation #2**, that Officers A and B taunted Subject 1 with his inhaler. The original complaint to IPRA by Subject 2 on September 22, 2014 included an allegation that, while Subject 1 was having an asthma attack, the police officers were "taunting him" with his inhaler. Subject 2 did not provide any information or description regarding which officer (Officer A or B) taunted Subject 1. Nor did Subject 2 provide any detail regarding how the officers taunted Subject 1.

The evidence to support the allegation is conflicting at best. Civilian 11 stated that he observed the shorter of the two officers, now known to be Officer B, taunt Subject 1 by squirting his inhaler twice in the air instead of giving it to him. Civilian 11 claims he saw the shorter officer reach into Subject 1's pocket, remove the inhaler, squirt it in the air and state "you should have thought about that before you ran." However, Civilian 11 also acknowledged that he did not witness any aspect of the incident after the officers placed Subject 1 in the squad car.. Civilian 4 stated that the shorter officer showed Subject 1 the inhaler and stated "this what you want?" Civilian 4, claims that the shorter officer never gave Subject 1 the inhaler and instead closed the squad car door. However, as outlined above, the medical evidence suggests that Subject 1 was administered his inhaler while in the officers' custody.

The accounts provided by Civilian 11 and Civilian 4 are at odds with those provided by Civilian 6 and Civilian 10 who both claim that the taller of the two officers handled Subject 1's inhaler which is consistent with officer accounts as both officers clearly state that only Officer A handled the inhaler. In seeming contradiction, Civilian 6 stated that the taller officer retrieved Subject 1's inhaler from Subject 1's car and showed Subject 1 the inhaler through the cage inside the squad car. According to Civilian 6, the taller officer squirted the inhaler twice in the air and then squirted the inhaler at the cage instead of giving it to Subject 1. However, Civilian 6's account is contradicted by Civilian 10's account. Like Civilian 6, Civilian 10 claimed to have seen the "taller" officer handling Subject 1's inhaler. However, Civilian 10 specifically stated that she saw the taller officer give Subject 1 two pumps of his inhaler and that she

did not observe any officer taunt Subject 1 prior to administering the inhaler. None of the Chicago Fire Department Personnel interviewed stated they witnessed either officer taunt Subject 1.

We do acknowledge that there is some evidence of verbal abuse during the incident. For example, Civilian 10 claims to have heard the "taller officer" tell Subject 1 "shut the fuck up. If you knew you could not breathe why did you run?" before he administered the inhaler. However, Civilian 10 was the only eyewitness to hear the "taller officer" tell Subject 1 to "shut the fuck up."

Based on the witness accounts and the other available evidence, there is insufficient evidence to either prove or disprove the allegation. Assuming arguendo that the alleged "taunting" was spraying the inhaler in the air instead of administering the inhaler directly to Subject 1, the alleged misconduct is not supported because the evidence weighs more toward the fact that Subject 1 was allowed access to his inhaler; either through the officers providing Subject 1 with the pumps or by Subject 1 using his inhaler himself.

Although there may have been an in appropriate verbal exchange between the officers and Subject 1, that does not necessarily equate to the alleged taunting with the inhaler. Finally, there is at least one independent witness, Civilian 10, who confirmed that the taller officer gave Subject 1 his inhaler and did not taunt him.

Because there is not a preponderance of evidence showing that Officers A and B taunted Subject 1 with this inhaler, this allegation against Officer A and Officer B is **Not Sustained**.