

DATE: August 7, 2017
REFERENCE: Log #1081463, U# 16-11

INCIDENT

DATE/TIME: July 16, 2016 at approximately 9:00 p.m.

LOCATION: XXXX West Washington Blvd, Chicago, Illinois 60644

INVOLVED

OFFICER: Officer A; Star #XXX; Employee #XXXXXX; Unit XXX; Black Male; On-Duty – Plainclothes; Beat XXXXX; CPD Start Date: 18 December 2000

WEAPON: Glock model 22; .40 caliber semi-automatic pistol; Serial # XXXXXXXX; City Registration #XXXXXXXX; FOID #XXXXXXXX; Winchester .40 caliber ammunition; one (1) live round recovered from the chamber, thirteen (13) live rounds recovered from the magazine; Weapon capacity of fifteen (15) rounds; Fired two (2) times based on Tactical Response Report (TRR) and supported by the count obtained during the processing of the officer's weapon.

INJURIES: None reported

INVOLVED

CIVILIAN: Subject 1; Black Male; DOB: 19 December 19XX; Address: XXX S. Annie Glidden Road, #XXX Dekalb, IL; IR #XXXXXXXX

WEAPON: Ruger, Model 9E; 9mm semi-automatic pistol; 4" barrel length, black finish; Serial #XXXXXXXX; fourteen (14) live rounds recovered from the magazine; one (1) live round recovered from the chamber; listed weapon capacity of sixteen (16) rounds.

INJURIES: Non-fatal gunshot wounds to left thigh and right chest.

SUMMARY OF INCIDENT

On July 16, 2016, nine members of Chicago Police Department's Gang Investigations Division made a coordinated tactical approach at XXXXXX, XXXX W. Washington Boulevard following a confidential informant's tip that individuals at the Auto Spa were illegally in possession of a firearm. During that police action, an officer discharged his weapon twice at an individual, now known as Subject 1, after Subject 1 allegedly refused to comply with the officer's orders to show his hands and then pointed a gun at the officer.

INVESTIGATION

IPRA obtained relevant video, forensic, and documentary evidence associated with this incident. IPRA interviewed civilian witnesses, the involved officer, as well as the other officers in the vicinity at the time of the incident.

The following is a summary of the evidence obtained and analyzed by IPRA in this investigation:

Witness Interviews

On July 17, 2016, a **Cook County Assistant State's Attorney** interviewed¹ **Civilian 1** regarding his account of the shooting that occurred at the Auto Spa on July 16, 2016. Civilian 1 identified Subject 1 as the individual with whom Civilian 1 had the conversation regarding his car. Civilian 1 further identified Subject 1 as the individual who ran around his car towards Officer A before Officer A discharged his weapon. Civilian 1 stated that Officer A instructed Subject 1 to put his hands up six separate times. (Att. 104)

On July 17, 2016, **IPRA interviewed Civilian 1** regarding the shooting that occurred at the Auto Spa on July 16, 2016. Civilian 1 owned a Chevrolet Monte Carlo that was parked in the Auto Spa on the day of the incident. Civilian 1 and Subject 1 were standing on the driver's side of the Monte Carlo discussing car audio and interior work. When Officer A arrived on the scene, Officer A instructed both Civilian 1 and Subject 1 to put their hands up. Civilian 1 immediately complied with Officer A's order, but Subject 1 did not. According to Civilian 1, Subject 1 was attempting to move away and around the back of the Monte Carlo. Civilian 1 did not witness the shooting. After the shooting, Civilian 1 was handcuffed and placed near the front seat of the Monte Carlo. (Att. 14)

On July 29, 2016, **IPRA interviewed Civilian 2** regarding his eyewitness account of the shooting that occurred at the Auto Spa on July 16, 2016. Civilian 2 was at the Auto Spa with Civilian 1 and Civilian 3, waiting for the audio work on Civilian 1's car to be completed. Civilian 2 was initially sitting on the couch outside of the Auto Spa's Washington Blvd entrance with Civilian 3 when police approached, directed Civilian 2 and Civilian 3 inside the premises, and commanded them to place their hands in the air. Before the police officers arrived,

¹ This interview with Civilian 1 was electronically recorded, a video of which is in IPRA's possession.

Civilian 2 heard an individual ask “which way did they go.” Ten to twenty seconds after hearing that unknown individual, and seeing him leave the Auto Spa, Civilian 2 states that the police then arrived on the scene.

From Civilian 2’s perspective, two African-American police officers arrived at the Washington Blvd entrance. The police officers were instructing everyone to put their hands up. Civilian 2 complied, and one of the officers directed him into the inside of the Auto Spa. Civilian 2 stated that Subject 1 was not complying with Officer A’s instruction to put his hands up. Civilian 2 stated that Subject 1 was “doing everything but putting them [his hands] up” and “fumbling with his hands.” According to Civilian 2, Subject 1 was between the Monte Carlo and the wall, on the driver’s side of the car. Civilian 2 could not see Subject 1’s hands because the car blocked his view. Civilian 2 stated that Officer A instructed Subject 1 to put his hands up three to four times before shooting. Civilian 2 stated that Subject 1 started running towards the exit, in the direction of where Officer A was standing, when Subject 1 was shot. When Subject 1 was turned to be handcuffed, Civilian 2 saw a gun right next to Subject 1. (Att. 50)

On July 17, 2016, a **Cook County Assistant State’s Attorney** interviewed² **Civilian 3** regarding his account of the shooting that occurred at the Auto Spa on July 16, 2016. Civilian 3 identified Subject 1 as the individual acting fidgety with his hands at the Auto Spa before Subject 1 was shot. Civilian 3 said that he was within feet of the gun that was found near Subject 1 after he was shot.

Civilian 3 was sitting on a bench outside of the Auto Spa, when he noticed two individuals come from West Washington Blvd and South Kilpatrick Ave, respectively. After both individuals disappeared, a black unmarked squad car appeared. Civilian 3 believes that four officers exited the vehicle that pulled up, and chased the individuals into the Auto Spa. An African-American police officer commanded Civilian 3 and Civilian 2 to place their hands up and instructed them to go into the Auto Spa. Once inside the Auto Spa, Officer A instructed everyone to put their hands up. Everyone complied with the exception of Subject 1, who was located on the far side of Civilian 1’s Chevrolet Monte Carlo. Civilian 3 stated that Subject 1 continued to fidget with his hands. Subject 1 charged towards Civilian 3, Civilian 2, and Officer A. As he charged, Officer A said “he got something,” and proceeded to discharge his weapon. Civilian 3 immediately saw the gun lying directly next to Subject 1. (Att. 103)

On July 17, 2016, a **Cook County Assistant State’s Attorney** interviewed³ **Civilian 4** regarding the shooting at the Auto Spa. Civilian 4 was working on the blue Ford Taurus that was parked by the black Monte Carlo. While buffing the car, he observed a man run into the waiting area of the Auto Spa, where Civilian 4’s fiancé, Civilian 7, worked. When police arrived, Civilian 4 observed Subject 1 crouching over by the Monte Carlo, and then Subject 1 proceeded to run right towards Officer A. When police rolled Subject 1’s body over, Civilian 4 saw a gun under Subject 1. Civilian 4 stated that Subject 1 was displaying his gun in the waiting area earlier in the day to Civilian 7. (Att. 110)

² This interview with Civilian 3 was electronically recorded, a video of which is in IPRA’s possession.

³ This interview with Civilian 4 was electronically recorded, a video of which is in IPRA’s possession.

On July 17, 2016, a **Cook County Assistant State's Attorney** interviewed⁴ **Civilian 5** regarding the shooting at the Auto Spa. Civilian 5 was working on the soundboard of the Monte Carlo at the time the police arrived at the Auto Spa. Civilian 5 observed everyone raise their hands, with the exception of Subject 1, who refused to comply with the officer's commands. Civilian 5 heard two gun shots, but did not witness the actual shooting. Before the shooting, Civilian 5 heard an unknown officer shout, "gun." (Att. 111)

On July 16, 2016, a **Cook County Assistant State's Attorney** interviewed⁵ **Civilian 6** regarding the incident at the Auto Spa. Civilian 6 stated that he was outside of the gate, near the Kilpatrick side of the building, talking to another individual about vehicle estimates at the time he saw the police first arrive at the Auto Spa. Civilian 6 observed an individual run past him into the Auto Spa at the time the police arrived. Additional officers approached and placed everyone in handcuffs and searched them. After the police finished searching Civilian 6, he heard commotion and two subsequent gun shots. (Att. 107)

On August 15, 2016, **IPRA spoke with Civilian 6 via telephone**. Civilian 6 stated that he did not witness the officer-involved shooting on the night of July 16, 2016 at the Auto Spa. Civilian 6 stated that he was outside of the Auto Spa, standing near Kilpatrick Avenue when the police initially arrived. He heard commotion inside of the Auto Spa, but did not know what was taking place. Soon after hearing the commotion inside of the Auto Spa, Civilian 6 heard two gun shots. (Att. 58)

On July 17, 2016, a **Cook County Assistant State's Attorney** interviewed⁶ **Civilian 7**. She is employed as the manager at the Auto Spa. At the time the police arrived, Civilian 7 was in the waiting area of the Auto Spa. While in the waiting area, she heard police instructing individuals to "put their hands up" and also heard gun shots. Civilian 7 did not observe the shooting or know what occurred at the time of the shooting. Civilian 7's fiancé is Civilian 4, an employee at the Auto Spa. Civilian 7 was in the Auto Spa's waiting area when she observed an unknown black man come into the area, crouch down by the door between the garage and the waiting area, and place something in the cooler. Soon thereafter, she observed police entering the Auto Spa.

Civilian 7 stated that she knows the individual who was shot by Officer A. She refers to Subject 1 as her "play nephew." She did not observe the shooting, but heard Subject 1 scream in pain after he was shot. (Att. 109)

On July 17, 2016, a **Cook County Assistant State's Attorney** interviewed⁷ **Civilian 7**. He is employed as a car washer at the Auto Spa, and was working when the police arrived on the night of July 16, 2016. Civilian 7 did not observe the officer-involved shooting that occurred at the Auto Spa. Civilian 7 was finishing up with a customer's car when he heard individuals, coming from the Kilpatrick-side entrance, tell everyone in the Auto Spa to put their hands up. While one of the officers was patting down Civilian 7, he heard "hands up, hands up" coming from behind Civilian 7, and subsequently heard the echo of gun shots approximately sixty seconds after he heard someone yell "hands up, hands up." (Att. 105)

⁴ This interview with Civilian 5 was electronically recorded, a video of which is in IPRA's possession.

⁵ This interview with Civilian 6 was electronically recorded, a video of which is in IPRA's possession.

⁶ This interview with Civilian 7 was electronically recorded, a video of which is in IPRA's possession.

⁷ This interview with Civilian 8 was electronically recorded, a video of which is in IPRA's possession.

On July 17, 2016, a **Cook County Assistant State's Attorney** interviewed⁸ **Civilian 9** who is an employee of the Auto Spa. Approximately 15 minutes before the police arrived, Civilian 9 observed an individual inside of the Auto Spa showing off a gun to other individuals. Civilian 9 identified the gun as being a black gun with a beam on it. Civilian 9 further identified Subject 1 as the individual who was showing off a gun at the Auto Spa before the police arrived. Civilian 9 states that Subject 1 was holding it on the side of his waist when he was showing it off.

When the police arrived, Civilian 9 attempted to run out of the Auto Spa. When he noticed police were in the direction he was running, he turned around and began heading in the opposite direction. At that point, Civilian 9 stopped and raised his hands. One of the officers instructed Civilian 9 to get down to the ground. While Civilian 9 was on the ground, he heard "let me see your hands," "get down get down," two gun shots, and then "I told your ass to get down." (Att. 106)

On July 17, 2016, a **Cook County Assistant State's Attorney** interviewed⁹ **Civilian 10**. Civilian 10 arrived at the Auto Spa about an hour or two before the police arrived. He was there to get some work done on his car. Civilian 10 parked outside of the Auto Spa on the Kilpatrick side. Civilian 10 had a conversation with Civilian 6 about the work he needed done. During their conversation, a Mitsubishi arrived and Civilian 6 began discussing estimates with the Mitsubishi driver. At that point, police arrived and entered the Auto Spa. Civilian 10 observed one officer exit the vehicle with his gun drawn. Civilian 10 heard yelling to get down a few seconds after police entered the Auto Spa. Two to three minutes later, he heard gun shots fired inside of the Auto Spa. Civilian 10 did not observe the shooting, or see any of the events occurring inside of the Auto Spa that led up to the shooting. Civilian 10 did not observe any person run past him into the Auto Spa. (Att. 108)

IPRA attempted to make contact with Involved Civilian Subject 1 on multiple occasions to arrange an interview but were unsuccessful. On July 20, 2016, IPRA placed a request with the Public Defender's office to interview Subject 1 at Stroger Hospital, but Public Defender, requested IPRA not schedule an interview with Subject 1 until a Public Defender had spoken with him. Most recently, on July 21, 2017, IPRA reached out to Subject 1 to attempt to arrange an interview but were again unsuccessful. (Att. 42, 46)

IPRA canvassed the area on July 16, 2016, for potential witnesses other than the individuals on the premises of the Auto Spa, but, did not locate anyone who reported witnessing the actual shooting. IPRA made attempts to reach people at addresses other than the ones listed below in close proximity to the Auto Spa, but either no one answered or the properties appeared to be abandoned. (Att. 31)

⁸ This interview with civilian 9 was electronically recorded, a video of which is in IPRA's possession.

⁹ This interview with civilian 10 was electronically recorded, a video of which is in IPRA's possession.

Police Officers¹⁰**Officer A**

In an **interview with IPRA** on August 5, 2016, **Involved-Shooting Officer A** provided his account of the events concerning the Incident. Sergeant 1 instructed Officer A to approach the Auto Spa from the Washington Blvd entrance, considered by many to be the “back” of the Auto Spa. As Officer A and his partner, Officer B, approached the Auto Spa, they exited their vehicle and heard someone (presumably another officer) say that someone was running. Sergeant 1 instructed Officer B to proceed to the “front” of the Auto Spa (the Kilpatrick entrance) to assist the other officers.

Officer A continued to advance towards the open overhead garage door, located on the Washington Blvd entrance of the Auto Spa, when he observed two men sitting on a bench in the parking lot outside of the open overhead garage door. The two men sitting on the bench matched the description of two individuals who were said to be in possession of illegal guns. Therefore, Officer A un-holstered his service weapon, pointed his gun at the men on the bench, and instructed them to “show him their hands.” The men on the bench were immediately compliant with Officer A’s commands, and raised their hands very high in the air.

While Officer A was asking the men on the bench to “show their hands,” he looked towards the opening of the garage and saw an additional two men standing behind a car in the Auto Spa. One, now known to be Thomas Civilian 1, was wearing a Subject 1 shirt and the other, now known to be Subject 1, was wearing a green shirt. Civilian 1 and Subject 1 were standing behind the vehicle, and only their upper body was visible to Officer A.

Officer A instructed Civilian 1 and Subject 1 to both put their hands up, while also ordering the men previously on the bench to move inside of the Auto Spa. While Civilian 1 immediately complied with Officer A’s instructions, Subject 1 did not. Officer A stated that Subject 1 would momentarily bring his hands up to his ears and immediately thereafter proceed to lower them below Officer A’s sight, below the windows of the car he was standing next to. Officer A estimates that Subject 1 raised and lowered his hands “five or six times” in succession. After the first few times that Subject 1 failed to raise his hands all the way up, Officer A began to focus his full attention at Subject 1, yelling “green shirt, stop moving.” While Officer A was yelling these commands, Officer B emerged from inside of the garage, towards Subject 1. Officer A stated that he yelled to Officer B that “green shirt has something in his hands.” As Officer B began to approach Subject 1, Officer A states that Subject 1 “totally disappeared” from behind the car and “re-emerged,” coming out of a crouched position.

Officer A estimated that he was approximately eight feet from Subject 1 when Subject 1 began to run towards him. Officer A stated that Subject 1 had his arms extended, and proceeded to point a gun at Officer A. Officer A could see the barrel of the gun, and immediately fired two shots at Subject 1 while backing away. Upon being shot, Subject 1 immediately fell, approximately five or six feet away from Officer A. Subject 1 fell on top

¹⁰ Every officer who was a part of the eight member team that initially approached the Auto Spa on July 16, 2016 with Sergeant 1 stated that they were informed by Sergeant 1 that he had recently received a tip concerning several men in the Auto Spa who were in possession of illegal guns and were in the Auto Spa at that time. For clarity purposes, each officer’s statement summary only discusses his recollection of the events on July 16, 2016 upon his arrival at the Auto Spa.

of the gun he was holding, with his hands underneath him. At this point, Officer A is yelling at Subject 1 to “not touch [the gun].” As Subject 1 was moaning, he asked Officer A “what did you hit me with?” Officer A said to Subject 1, “I told you to keep your hands up.” (Att. 71)

Sergeant 1

In an interview with IPRA on August 17, 2016, **Sergeant 1** provided his account of the events concerning the Incident. Sergeant 1 approached the Auto Spa from the entrance near Kilpatrick. Sergeant 1 observed a black male in a red shirt run into the Auto Spa. Officer C began chasing the male in the red shirt, as Sergeant 1 and Officer J exited the vehicle. Sergeant 1 ran towards the Kilpatrick entrance, instructing Officer J to go with Officer C, and instructing Officer A to assist Officer J and Officer C. Upon reaching the entrance near Kilpatrick, Sergeant 1 observed Officer G and Officer H controlling the area near Kilpatrick. Sergeant 1 entered the Auto Spa from Kilpatrick, and proceeded to pat down individuals inside of the premises.

Sergeant 1 recalled seeing Officer A near the Washington Blvd entrance. Sergeant 1 heard Officer A providing commands to an individual, stating “you in the green show me your hands.” Thereafter, Sergeant 1 heard two gun shots. Sergeant 1 saw Officer A yelling in a direction behind a car near the Washington Blvd entrance of the Auto Spa. Upon arriving near the back of the vehicle, Sergeant 1 saw an individual on the ground and at least one officer taking control of a male black individual in the green [now identified as Subject 1]. Sergeant 1 did not observe a gun in Subject 1’s hands, but saw a gun near Subject 1 as an officer was placing Subject 1 in handcuffs.

After Sergeant 1 called for an ambulance over the radio, he called Officer A to the parking lot. He asked Officer A whether Officer A was okay and asked him what had happened. Officer A responded that Subject 1 approached him with a gun before he proceeded to discharge his weapon. Sergeant 1 then went back into the Auto Spa to further secure the area. (Att. 77)

Officer B

In an interview with IPRA on August 5, 2016, **Officer B** provided his account of the events concerning the Incident. Upon arrival at the Auto Spa, Officer B observed three men begin to run inside of the Auto Shop. One individual ran near the entrance on Kilpatrick, while another individual ran inside of the Auto Spa from the entrance on Washington Blvd. Sergeant 1 then directed Officer B to enter from the entrance on the Kilpatrick side of the premises. As Officer B entered the Auto Spa, he proceeded to pat down as many people as possible. While patting down an individual near a Subject 1 car located in the Auto Spa, Officer B observed Officer A standing by the garage door closest to Washington Blvd, yelling “let me see your hands” at an individual in a Subject 1 shirt, now known to be Civilian 1, and an individual in a green shirt, now known to be Subject 1.

Officer B stated that Civilian 1 was immediately compliant, but Subject 1 was not. Subject 1 was constantly moving his hands up and down. Officer B stated that after observing Subject 1’s actions, he decided to approach Subject 1 with the intention to grab him. As Officer B was approaching, Subject 1 turned away from Officer B, ran around the back of the car he was standing near, and immediately at Officer A, who proceeded to shoot Subject 1. Officer B heard three shots, and saw Officer A discharge his gun in the direction of Subject 1. Officer

B stated that he observed a gun fly out of Subject 1's hand when he was shot. He further stated that he was approximately ten feet away from Subject 1 when he was shot. (Att. 73)

Officer C

In an interview with IPRA on August 17, 2016, **Officer C** provided his account of the events concerning the Incident. Officer C approached the Auto Spa from the entrance on Washington Blvd. As Officer C's car approached, he observed an unknown black male in a red shirt, standing at the entrance. The man in the red shirt immediately ran into the Auto Spa, towards the Kilpatrick side entrance. Upon observing the male in a red shirt flee, Officer C exited his vehicle and pursued him. Officer C gestured to the officers near the Kilpatrick entrance to detain the man in the red shirt.

After the man in the red shirt was detained, Officer C observed Officer A with his gun out, pointed at two individuals who are close in proximity to Officer A. Officer A is screaming, "motherfucker, show your hands" and "you in the green shirt, motherfucker, show your hands" at an individual in a green shirt, now known to be Subject 1. Officer C could only see the upper portion of Subject 1's body, but could see that his hands were not raised. Officer C could not see what Subject 1 was doing with his hands. Officer C observed Subject 1 run towards Officer A, thereafter hearing two to three shots in succession. While Subject 1 was running, Officer A was still giving commands for Subject 1 to show his hands. Officer C did not see a weapon on Subject 1's person until after the shooting, when Subject 1 was being positioned to be handcuffed. (Att. 79)

Officer D

In an interview with IPRA on August 31, 2016, **Officer D** provided his account of the events concerning the Incident. Officer D approached the Auto Spa from the entrance on Kilpatrick. Prior to getting to the Auto Spa door from Kilpatrick, Officer D heard someone screaming "show me your hands." He did not know who was yelling at the time, but assumed it was a police officer providing the commands. Officer D stated that within twenty seconds of him arriving on the scene, and when he was about to step inside of the Auto Spa, he heard two or three gun shots. After hearing gun shots, Officer D immediately ducked down, as he had no clue where the gun shots were coming from.

As Officer D moved further into the Auto Spa, he observed Officer A near the entrance on Washington Blvd, with his gun out in a down-grip position, saying "fuck, I told you to show me your hands." At this time, Subject 1 was laying on his side in the fetal position. Officer D saw a gun near Subject 1. Officer D did not observe Officer A discharge his weapon. (Att. 83)

Officer E

In an interview with IPRA on August 31, 2016, **Officer E** provided his account of the events concerning the Incident. As Officer E was approaching the Auto Spa, he heard an individual yelling "show me your hands." At the time, he did not know who was shouting these commands. Five to ten seconds after Officer E heard the yelling and instructions being given, he heard two gun shots in succession. As Officer E walked around a vehicle in the garage near the Washington Blvd entrance, he observed Subject 1 on the ground. Officer

A was standing near the Washington Blvd entrance, and stated something to the effect of “damn, I told you to show me your hands,” while his gun was in the low-ready position. As Subject 1 was being handcuffed, Officer E observed a gun on the ground near Subject 1. The gun was positioned near Subject 1’s hands, closer to his upper torso. For a few minutes after the shooting, Officer E stood by the gun to secure it, until Sergeant 1 instructed Officer E to secure the building. (Att. 85)

Officer F

In an interview with IPRA on September 8, 2016, **Officer F** provided his account of the events concerning the Incident. Officer F approached the Auto Spa from the entrance near Kilpatrick. Officer F was walking into the Auto Spa when he heard two gun shots in succession. He immediately took cover, and then proceeded to run inside of the Auto Spa. Before Officer F heard the gun shots, he did not recall hearing any specific commands being given. However he observed what appeared to be a commotion in the Auto Spa. Officer F approached the area where the commotion was taking place and observed a gun next to Subject 1, near his thigh-area. An unknown individual at the Auto Spa told Officer F how “stupid” Subject 1 was in not complying with Officer A’s instructions. That individual told Officer F that Officer A told Subject 1 to stop moving, and he did not. Officer F stated that he did not observe the Incident and does not know if Officer A had any other option to eliminate the threat that Subject 1 posed. (Att. 87)

Officer G

In an interview with IPRA on September 20, 2016, **Officer G** provided his account of the events concerning the Incident. Officer G approached the Auto Spa from the entrance near Kilpatrick. Upon arrival, he observed a black male in a red t-shirt who appeared to be fleeing from officers coming from the Washington Blvd side of the building. Officer G then proceeded to exit his vehicle and detain the male in the red shirt. Officer H was near Officer G assisting in detaining the male in the red shirt. Both officers then proceeded to detain a second male and initiate a pat down on both individuals. After the pat down was conducted, Officer G heard a loud commotion in the car wash consisting of male voices, but could not make out what the voices were saying. As a result of the commotion, Officer G turned some of his attention to the inside of the Auto Spa.

Officer G stated that he heard several gun shots after the yelling commenced in the Auto Spa. Officer G, reacting to the gun shots, ordered the men he and Officer H were patting down to the ground and proceeded to enter the Auto Spa. Officer G does not recall seeing Officer A after entering the Auto Spa, and was only in the Auto Spa for a few seconds at the most. (Att. 89)

Officer I

In an interview with IPRA on September 20, 2016, **Officer I** provided his account of the events concerning the Incident. Officer I approached the Auto Spa from the entrance near Kilpatrick. He observed people running into the Auto Spa, and running away from the Auto Spa. Near At the parking lot near Kilpatrick, Officer I and Officer F begin detaining individuals who matched the description Sergeant 1 provided the

officers in advance of the operation. After Officer I completed a pat down of an individual near a car in the parking lot outside of the Auto Spa by the Kilpatrick entrance, he heard yelling coming from inside of the Auto Spa, and a subsequent gun shot. Officer I then proceeded to run into the Auto Spa. Inside the Auto Spa, Officer I observed Subject 1 handcuffed by the car. He did not see Officer A or a firearm while in the Auto Spa, because he merely glanced at Subject 1 and the area near the Washington Blvd entrance. (Att. 91)

Officer J

In an interview with IPRA on August 31, 2016, **Officer J** provided his account of the events concerning the Incident. Officer J observed a man in a red shirt, fitting one of the descriptions provided by Sergeant 1 in advance of the operation, start walking towards Washington Blvd. As Officer J pulled up to the Auto Spa's Washington Blvd entrance, the male in the red shirt ran towards Kilpatrick. Officer C pursued the male in the red shirt, and Sergeant 1 directed Officer J to assist Officer C. As Officer J entered the Auto Spa, he noticed Subject 1, and Officer J stated that it looked to him like Subject 1 had contraband of some sort. Officer J instructed Subject 1 to stay there, and proceeded to continue into the Auto Spa after the male in the red shirt. After patting down the male in the red shirt, Officer J heard Officer A yelling "show me your hands," and heard gun shots thereafter. Officer J then observed Officer A pointing his handgun at Subject 1 on the ground, instructing him to show his hands. Officer J proceeded to handcuff Subject 1, with assistance from Officer D and Officer E. Officer J observed a gun after Subject 1's body was moved in order to handcuff him. Officer J recalls Officer A stating, "fuck – I told you to show me your hands." (Att. 81)

Officer H

In an interview with IPRA on September 20, 2016, **Officer H** provided his account of the events concerning the Incident. Officer H approached the entrance of the Auto Spa near Kilpatrick. Officer H observed approximately 30 to 40 people outside of the Auto Spa. When Officer H was still in his vehicle, he observed individuals coming towards him, away from the Washington Blvd side of the property and towards the Kilpatrick side of the property. Officer H said that his partner, Officer G, noticed an individual who matched the description provided coming their way. Officer H and Officer G proceeded to approach that individual and detain him, in addition to other individuals. While conducting a pat down of these individuals, Officer H heard a commotion coming from inside of the Auto Spa, and subsequently heard two gun shots. Upon hearing gun shots, Officer H turned around, drew his weapon, and attempted to take cover. After hearing the gun shots and learning that none of his fellow officers were wounded, Officer H began to write down the names of the individuals who he had initially detained. Officer H entered the Auto Spa after the situation was under control. While inside the premises, Officer H observed several cars, civilians, and other officers. Subject 1 was on the ground, approximately fifteen feet away from Officer H. Officer H said that he does not know if Officer A had any other option to eliminate the threat that Subject 1 posed. (Att. 93)

Video & Audio Evidence

Video Surveillance Footage from The Auto Spa shows multiple angles inside the premises of the Auto Spa as well as the parking lots located on Kilpatrick and Washington Blvd. None of the video footage from the Auto Spa captures the shooting. (Atts. 36, 101) The responding officers were not equipped with body worn cameras. A relevant selection of clips from the video surveillance footage is documented in the chart listed below:

<u>Camera No.</u>	<u>Area Covered</u>	<u>Recording File # / Time Stamp / Event Description</u>
1	View of a small section of the Auto Spa garage.	#XXXX / 10:10:42 / Subject 1 male police officer seen using what appears to be a knife to cut a hole in the tarp on camera, and proceeds to look through the hole. Several officers search the area depicted on the video.
2	View of the interior of the Auto Spa body shop	#XXX / 09:56:34 / Several black males seen walking quickly into the Auto Spa – one seen removing something from waistband and placing in a box in room near Monte Carlo. #XXXX / 09:58:04 / Several police officers are shown searching many of the black males inside of the Auto Spa. Officers are shown drawing their weapons in response to what appears to be an individual at the rear of the shop and out of view of the camera.
3	View of the rear parking lot, near Washington Blvd	#XXXXX/ 09:57:00 / Unmarked police vehicles arrive on the scene and several officers run towards the camera. #XXXX / 10:11:51 / Ambulance crew seen bringing a black male through the scene on a stretcher and loading him into an ambulance.
4	Side view of the parking lot shown in Camera No. 3.	#XXXX/Two officers run past the camera into the Auto Spa. #XXXX/Officers inside the Auto Spa point their weapons at something inside of the shop.
5	View of the outside entrance of the body shop near Kilpatrick	#XXXX/Officers standing outside of the Auto Spa. Several black males are sitting on the ground outside of the shop. Two of the black males are eventually handcuffed and escorted from the scene, while the other black males are released.
6	View of the parking lot near Kilpatrick, facing a small green building.	# XXXX / 09:56:49 / Police officers arrive on the scene. One officer is seen patting down two men standing outside of the fence of the Auto Spa parking lot. #XXXX / 09:58:07 / Civilians on the scene run either across the street or towards the small green building in camera view.
7	View similar to that of Camera No. 5, but from a higher vantage point.	#XXXX / 09:58:06 / Individuals at the scene react to something out of view of the camera. Some civilians flee the scene and most officers move towards the Auto Spa.

Forensic Evidence

CPD Crime Scene Processing Reports XXXXXX and XXXXXX completed on July 17, 2016 document the evidence identified, collected, and inventoried in connection with the Incident. A summary of that information is as follows:

The gun in Subject 1's possession was a Ruger 9mm semi-automatic pistol with a 4" barrel and black finish. The evidence technicians recovered fifteen (15) live rounds from the firearm, including one in the chamber.

Officer A's gun is a Glock model 22, 40 Smith & Wesson caliber semiautomatic pistol. The evidence technicians recovered thirteen (13) live rounds from the magazine and one from the chamber. (Att. 29)

Illinois State Police (ISP) Forensic Science Laboratory Report¹¹ dated August 17, 2016 documents that the gun in Subject 1's possession was a Ruger model P95, 9mm Luger caliber semiautomatic pistol, serial #XXX-XXXXX, and was operable. ISP entered the information related to a test fired cartridge case from the pistol into the Integrated Ballistics Identification System database but did not find any additional information through that search. ISP also examined Officer A's gun, a Glock model 22, 40 Smith & Wesson caliber semiautomatic pistol, serial #XXXXXXXX, and a gun magazine, and found that it was operable. (Att. 76)

Evidence Technician Photographs and Video depict the scene and the recovered evidence. (Atts. 45, 68, 69)

Medical Reports

A **Chicago Fire Department Ambulance Report** documents that Ambulance 10 arrived at the scene on July 16, 2016 at 9:18 p.m. (Att. 26)

Medical Records from Cook County Health and Hospitals System, documents that **Doctor A** attended to Subject 1 on July 16, 2016. Doctor A documented that Subject 1 was suffering from a gunshot wound in the "right posterior axillary line" (commonly referred to as the right chest) and another gunshot wound in the "anterior left thigh." Subject 1 also was treated for a "comminuted fracture of the right 10th rib," "multiple radiopaque foreign bodies around the right upper quadrant of the abdomen," and "comminuted, displaced, and foreshortened fracture of the mid femoral diaphysis." Subject 1 was discharged to Cook County Department of Corrections Cermak Hospital on July 30, 2016. (Att. 95)

Other Documentary Evidence

A **Tactical Response Report (TRR)** completed by **Officer A** documents that Subject 1 did not follow verbal direction, presented an imminent threat of battery, and attacked with a weapon likely to cause deadly force. Officer A responded with discharge of his firearm. Officer A discharged his firearm two (2) times. (Att. 19)

¹¹ As of the date of this report, IPRA has not received any additional ISP forensic results to include for Latent or DNA testing. However, IPRA does not anticipate that the results will have any impact on its administrative findings.

The **Officer's Battery Report (OBR)** completed by **Officer A** documents that Subject 1 pointed a firearm at Officer A. (Att. 20)

General Offense Case and Detective Supplementary Reports HZXXXXXX document information collected and reported by CPD regarding the July 16, 2016, police-involved shooting of Subject 1. (Atts.18, 99, 100, 112 -114).

CPD's Bureau of Internal Affairs conducted an **alcohol and drug test** of involved **Officer A** on July 17, 2016 beginning at 0035 hours. The collective bargaining agreement and policy of CPD requires those involved in a firearms discharge to undergo testing for the presence of alcohol and drugs. The tests came back negative. (Att. 48)

According to the **Clerk of the Circuit Court of Cook County** records under case #XXXXXXXXXXXX, on July 31, 2017, Subject 1 entered a plea of guilty to Felony Aggravated Assault/Peace Officer with a weapon. On this same day, Subject 1 was found guilty and sentenced to two (2) years at the Illinois Department of Corrections. (Att. 130)

ANALYSIS

Based on the totality of the circumstances, Officer A's use of deadly force against Subject 1 was objectively reasonable, and therefore, Within Department Policy. A preponderance of evidence demonstrates that Subject 1 presented an imminent threat of death or great bodily harm to Officer A because Subject 1 failed to comply with Officer A's repeated and consistent instructions to "show his hands," ran towards Officer A with a loaded gun and pointed it at Officer A just before he was shot by Officer A. As such, the use of deadly force by Officer A against Subject 1 was objectively reasonable and, therefore, Within Department Policy as outlined by the Chicago Police Department's General Order 03-02-03, III; and the Illinois State statute. Officer A's use of force also complied with applicable constitutional standards.

CPD Policy, Illinois State Statute, & Constitutional Standards

Chicago Police Department General Order 03-02-03, III states that a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. [t]o prevent death or great bodily harm to the sworn member or to another person, or;
2. [t]o prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - (a) has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - (b) is attempting to escape by use of a deadly weapon; or
 - (c) otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

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

...a peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person...

Finally, determinations regarding the potential use of excessive force 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 officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989). See *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer's use of force is reasonable: (1) "the severity of the crime at issue;" (2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and (3) whether he is actively resisting arrest or attempting to evade arrest by flight." *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). This reasonableness calculation "must embody allowance for the fact that police officers are often forced to make split second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham*, 490 U.S. at 396-97. Consequently, "when an officer believes that a suspect's actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the officer can reasonably exercise the use of deadly force." *Muhammed v. City of Chicago*, 316 F.3d 380, 383 (7th Cir. 2002) (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir. 1988) (*en banc*) (omitting emphasis)).

Officer-Involved Shooting

There is a preponderance of evidence that Officer A reasonably believed that deadly force was necessary to prevent Subject 1 from causing death or bodily harm to Officer A or others. It is uncontroverted that Subject 1 did not comply with any of Officer A's instructions, was armed, and pointed his firearm at Officer A. Accordingly, Officer A's use of force was reasonable, and therefore, Within Department Policy.

1. Officer A was reasonable in his belief that Subject 1 was a threat because he did not comply with any of Officer A's instructions, was armed, and pointed his firearm at Officer A:

Based on civilian and officer witness statements, Subject 1 was the only individual in the Auto Spa who was not complying Officer A's instructions. Despite Officer A's numerous and constant instructions directed at Subject 1 to show his hands, Subject 1 ran directly at Officer A and pointed a gun at him.

Officer A immediately fired two shots at Subject 1, striking him twice, in the chest and leg. Both of Subject 1's gunshot entrance wounds were to the front of his body. From the evidence obtained and analyzed in this investigation, COPA did not find anything that contradicts Officer A's account of what took place between Subject 1 and Officer A in the seconds leading up to and including the shooting.

The fact that Subject 1 was pointing a gun directly at Officer A demonstrates that Officer A was reasonable in his belief that Subject 1 presented an imminent threat to Officer A and others.

CONCLUSION AND FINDING

Because Officer A reasonably believed that Subject 1 presented an imminent threat to Officer A and others, Officer A was entitled to use deadly force against Subject 1. The evidence clearly shows that an officer with similar training and experience would reasonably believe that Subject 1 posed an immediate threat of death or serious bodily harm to the Officers and the public. Accordingly, Officer A's use of deadly force was objectively reasonable as outlined by the Chicago Police Department's General Order 03-02-03, III; and the Illinois State statute. Officer A's use of force also complied with the Fourth Amendment.