

INTRODUCTION:

On 01 May 2015, at approximately 0204 hours, at XXXX XX XXXXXXXXXXXX XXXXXXX, subjects 1, 2 and 3 were involved in the armed robbery of Subject 4 and 5. During the armed robbery, Subject 5 was shot multiple times. Subject 1, Subject 2 and Subject 3 fled the scene.

At approximately 0317 hours, Beat XXXX, occupied by Officer A (alone) was flagged down in the vicinity of XX XX XXXX XXXXXXX by two citizens, Witness 1 and Witness 2, who had just been robbed by Subject 1, Subject 2 and Subject 3. The subjects had taken Witness 1's cell phone and fled in a XXXXXXX XXX XXXXXXX. While in the car with Officer A, Witness 1 and Witness 2 utilized the "Find My iPhone" app on Witness 2's phone and located the phone transmitting from XXXX XXXXXXX and XXXXXXXXXXX XXXXXXX. Officer A drove towards XXXX XXXXXXX and XXXXXXXXXXX XXXXXXX with Witness 1 and Witness 2 riding along in the rear of the police car (Beat XXXX). Beat XXXXX, occupied by Officer B and Officer C accompanied Beat XXXX to XXXX XXXXXXX and XXXXXXXXXXX XXXXXXX where they located the XXXXXXX XXX XXXXXXX traveling at a slow speed, apparently subject to a flat tire, while proceeding westbound on XXXX XXXXXXX. Beats XXXX and XXXXX curbed the vehicle by engaging their emergency equipment.

Beat XXXX pulled up ahead and in front of the XXX, while Beat XXXXX pulled up behind the XXX. Officer B approached the driver's side of the vehicle, while Officer C approached the passenger side. Officer C ordered the front passenger, Subject 1, out of the vehicle. Subject 1 stepped out of the vehicle holding a Styrofoam container of nachos. As Subject 1 exited the vehicle, Officer C observed a handgun sticking out of Subject 1's waistband. Officer C ordered Subject 1 to drop the food. Subject 1 dropped the food and then charged at Officer C, striking him in the chest with his body. Officer C, who had drawn his firearm from his holster as he had originally approached the XXX, fell backwards and his weapon discharged. The physical contact resulted in Officer C discharging one (1) round, which Officer C described as an accidental firing.

Subject 1 fled from the scene on foot. Subject 1 was later found and arrested at XXXXX XXXXXXX as he was seeking treatment for the gunshot wound he sustained to the left side of his chest.

ALLEGATIONS:

It is alleged that on 01 May 2015, at approximately 0317 hours, at the location of XXX XX XXXX XXXXXXX, **Officer C:**

1. Was inattentive to duty when he accidentally discharged his firearm, which resulted in Subject 1 sustaining a gunshot wound, in that he violated Rule 10 of the Chicago Police Department's Rules and Regulations Policy.

It is further alleged that on 01 May 2015, at approximately 0317 hours, at the location of XXX XX XXXX XXXXXXX, **Officer A:**

1. Was inattentive to duty when he endangered Witness 1 and Witness 2, by positioning his vehicle, with them inside of it, in front of and/or near the offenders' vehicle, in that he violated Rule **10** of the Chicago Police Department's Rules and Regulations Policy.

APPLICABLE RULES AND LAWS:

- Rule 10: Inattention to duty
- General Order G03-02-06: Firearms Discharge Incidents Involving Sworn Members

INVESTIGATION:

Attempts to interview Subject 1 were made but were unsuccessful. On 01 May 2015, IPRA Investigator A attempted to contact Subject 1 at XXXXXXXX XXXXXXXX. Subject 1 refused to provide IPRA Investigator A with a statement. On 19 May 2015, the R/1 mailed a certified letter to Subject 1 care of the XXXX XXXXXXXX XXXX, seeking his cooperation with the investigation. The letter was returned to the RI! as Subject 1 was discharged from XXXX XXXXXXXX XXXX. On 10 June 2015, the R/I discovered that Subject 1 was incarcerated at the XXXXXXXXXXXXXXXXXXXXXXXXXXXX, and mailed a certified letter to Subject 1 there, seeking cooperation without any success. On July 12, 2017 and July 20, 2017, the R/I made attempts via telephone and email with the XXXXXXXX XXXXXXXXXXXX XXXXXXXX to inquire of an assigned Attorney for Subject 1. On 21 July 2017, the R/I was notified that Subject 1 was being represented by the XXXXXXXX XXXXXXXXXXXX XXXXXXXX but could not be spoken to at this time. (Att. #15, 73-77, 79, 96)

Attempts to interview Subject 2 were made. On 06 May 2015, the R/1 scheduled an interview with Subject 2 at the XXXX XXXXXXXX XXXX on 12 May 2015. On 11 May 2015, the R/I was contacted by the XXXX XXXXXXXX XXXXXXXX XXXXXXXXXXXX XXXXXXXX and notified that Subject 2 did not want to provide IPRA with a statement. (Att. #96)

Attempts to interview Subject 3 were made. On 06 May 2015, the R/I scheduled an interview with Subject 2 at the XXXX XXXXXXXX XXXX on 12 May 2015. On 11 May 2015, the R/I was contacted by the XXXX XXXXXXXX XXXXXXXX XXXXXXXXXXXX XXXXXXXX and notified that Subject 3 was represented by a private attorney. On 21 May 2015, the R/I mailed a certified letter to Subject 3 at XXXX XXXXXXXX XXXX seeking cooperation. As of the date of this summary, Subject 3 has not contacted IPRA. On July 12, 2017 and July 20, 2017, the R/I made attempts via telephone and email with the XXXXXXXX XXXXXXXXXXXX XXXXXXXX to inquire of an assigned Attorney for Subject 3. On 21 July 2017, the R/I learned that Subject 3 was being represented by the law firm of XXXXXXXXXXXX X XXXXXXXXXXXXXXXXXXXX. The R/I called the law office and was told that Subject 3 could not be interviewed at this time. (Att. #96, 108, 109)

In a statement to IPRA on 01 May 2015, **Witness 1** stated that he and Witness 2 were walking to their vehicles which were parked on XXXX XXXXXXXX. As they were saying goodbye to one another, a XXXX XXX slowly drove by them and came to a stop at the intersection of XXXX XXXXXXXX and XXXXXXXX XXXXXXXX. Witness 1 observed two males exit the car and begin to walk in the middle of the street towards them. Witness 1 believed that the two males were

about to enter a nearby apartment building, so he turned his back to them. Witness 1 was looking at Witness 2 and saw her eyes widen. One of the males, now known to be Subject 1, rushed up to Witness 1 and placed a gun against his temple. Witness 2 ran away from the scene and screamed for help. Subject 1 took Witness 1's wallet and cell phone and then fled the scene in the XXXX XXX.

Witness 1 made his way to the corner of XXXX XXXXXX and XXXXX XXXXXX where he flagged down a marked Chicago Police squad car and told the officers that he had just been robbed. Witness 1 then located his cell phone by using the "Find My iPhone" application on Witness 2's cell phone. Officer A placed Witness 1 and Witness 2 in the rear of his squad car and drove with the couple as passengers to the area near XXXX XXXXXX and XXXXXXXXXXX. Once on XXXX XXXXXX, Witness 1 observed that his phone was shown to be traveling westbound near XXXX XXXXXX and XXXXXX XXXXXXX.

As they approached that location, Witness 1 observed the same XXXX XXX he had seen earlier traveling at a slow rate of speed with its hazard lights flashing. According to Witness 1, Officer A pulled his squad car in front of the XXX, while two other squad cars' parked behind the XXX. Witness 1 was looking out of the rear windshield and observed the officers order the occupants of the XXX to place their hands up. Witness 1 then observed the front passenger, Subject 1, exit the vehicle and charge towards Officer C. Witness 1 then heard a single gunshot. Witness 1 and Witness 2 then ducked down and took cover in the rear of Officer A's squad car.

Moments later, Witness 1 and Witness 2 were taken out of Officer A's squad car. Witness 1's wallet and cell phone were recovered from the XXXX XXX. Witness 1 identified all three occupants of the XXX as the offenders who robbed him. (Aft. #43-44)

In a statement to IPRA on 01 May 2015, **Witness 2** provided an account of the events that was similar to that provided by Witness 1. Witness 2 was seated in the back of the squad car with Witness 1 when they located the offender's vehicle on XXXX XXXXXX. Officer A maneuvered his squad car in front of the offender's vehicle. Officer A parked his squad car, got out and walked to the passenger side of the offender's vehicle. According to Witness 2, she could only see Officer A back and did not see what was occurring on the passenger side of the offender's vehicle. Witness 2 then heard officers state, "Get out the car, get out the car...put your hands on the car." Witness 2 then heard one gun shot. Witness 2 did not see any of the officers pointing their weapons at anyone. Witness 2 stated that she and Witness 1 were seated in the rear of the squad car for several more minutes, until an officer approached and let them out of the vehicle. (Att. #47-48)

According to **Department Reports**, Subject 1 was arrested on 01 May 2015, at 0417 hours, at XXXX XX XXXXXXXXXXX XXXXXX, and charged with Aggravated Battery to a Peace Officer, two counts of Armed Robbery with a Firearm, Aggravated Battery/Discharge of a Firearm, Unlawful Use of a Weapon and Attempted First Degree Murder. The report identifies arresting Officer A as the arresting officer. It was reported that Subject 1 was arrested after he was

Through the investigation it was determined that only one squad car parked behind the XXXX XXX. That squad car was occupied by Officers B and C.

identified as the subject who pointed a handgun at Witness 1's head and took his wallet and cell phone from him. Subject 1 was then located by the police, at which time Subject 1 was still armed with a handgun. Subject 1 was reported to have pushed Officer C away, defeating his arrest. (Att. #6, 9-11, 19-21, 23-24)

The **Detective Supplementary Report** dated 10 June 2015, and completed by Detective A, indicates that on 01 May 2015, at 0206 hours, the same offenders involved in this incident were responsible for an armed robbery earlier in the evening. In the first incident, the offenders approached Subject 4 and Subject 5 as they exited their vehicle located at XXXX XX XXXXXXXXXXX XXXXXX. One offender approached Subject 4 and demanded her property and went through her pockets, taking her cell phone and purse containing a credit card. The second offender approached Subject 5, pointed a handgun at him and demanded his property. Subject 5 attempted to knock the gun out of the offender's hand. The offender became agitated and shot Subject 5 in the groin. Subject 5 fled to the west sidewalk. The offender followed and shot Subject 5 one more time. The offenders then fled the scene. Subject 5 was transported to XXXXXXXX XXXXXXXX in serious condition². The offenders were later apprehended on the same date after committing a robbery at 40 E. 21st Street. (Att. #96)

The **Detective Supplementary Preliminary Report** dated 01 May 2015, drafted by Detective B, related that Officer C was "in fear for his life when the offender rushed towards him with the handgun and fired one gunshot and was not sure that the offender was shot."³ (Att. #12)

The **Detective Supplementary Report** dated 23 June 2015, and completed by Detective B, related that Officer C observed a handgun in Subject 1's waistband. Subject 1 "rushed towards Officer C and struck Officer C in the chest with his forearm." The report indicates that, due to the contact made by Subject 1, Officer C's weapon discharged. (Att. #91)

According to the **Tactical Response Report (TRR)**, completed by Officer C, Subject 1 did not follow verbal directions, fled, was an imminent threat of a battery and charged into Officer C, causing Officer C's gun to fire. Officer C responded with member presence, verbal commands and the discharge of his firearm. In the "Additional Information" block of his TRR, Officer C reported that Subject 1, "Fled directly into member in an attempt to defeat an arrest, the impact causing member's weapon to discharge." (Att. #7)

According to the **Officer's Battery Report (OBR)**, on the date, time and location of the incident, Officer C was in uniform investigating an armed robbery. Subject 1 exited the vehicle at which time Officer C observed a handgun in Subject 1's waistband. Subject 1 failed to comply with verbal commands and charged at Officer C, striking him and causing the officer's firearm to discharge one time. Officer C did not sustain any injuries. (Att. #8)

² Subject 5 later died from the injuries he sustained from this incident.

Detective B would later clarify that his preliminary supplemental report was in error, and that he clarified that the contact caused the accidental discharge in his final supplemental report.

The OEMC and PCAD **reports** were collected and made part of this case file. An analysis of the Chicago Police Department Event Queries and Transmissions shows that the following relevant 911 calls and dispatch transmissions were made (Att. #18, 25, 55-56):

- 01 May 2015, 0204 hours, an unidentified female caller related to the dispatcher that she heard 6-7 gunshots fired either on XXXX XXXXXX Street or XXXX XXXXXX between XXXXXX and XXXXXXXXXXX. The female caller reported that she heard a car then speed away.
- 01 May 2015, 0205 hours, an unidentified male caller related to the dispatcher that there was one person shot at XXXX XXXXX and XXXXXXXXXXX.
- 01 May 2015, 0206 hours, Beats XXXX and XXXX were dispatched to XXXX XX XXXXXXX between XXXXXXXXXXX and XXXXXXX to a report of several shots fired. A male was shot with a gunshot wound to the leg. Fire was responding. The dispatcher further announced, "Three shots fired from a XXXX vehicle. The lights were out in the rear. The vehicle fled eastbound."
- 01 May 2015, 0209 hours, Beat XXXX announced that the "offender was a male, XXXXX, with XXXXX XXXXXXXXXXX, XXXXX XXXXX, wearing XXX XXXXX, XXXXX XXXXXXX, XXXX XXX, robbed lady of a phone."
- 01 May 2015, 0241 hours, Beat XXXX announced that there were two additional offenders. The first "offender was a male, XXXXX, XXXX XXX, XXXXX XXXXX XXXXXXX with a XXXXX XXX. The second offender was a XXXX, XXX, wearing a XXXXX XXXXXXX, with XXXXX XXXXXXX. Items taken were a wallet, miscellaneous identification cards, an iPhone and a phone charger."
- 01 May 2015, at 0317 hours, Beat XXXXX announced that he had been flagged down by a person stating that he "got robbed over here by XXX off of XXXXX XXXXXXX. Had Find My Phone App and maybe the phone is at XXXX and XXXXXXX. We are with XXXX going to try and check it out with sergeant's permission." Beat XXXX came on the air and corrected the location which was at XXXX and XXXXXXXXXXX." Beat XXXX came on the air and gave permission to investigate.
- 01 May 2015, at 0320 hours, Beat XXXXX announced that he was at XXX XX XXXX XXXXXXX and requested an additional unit to that location. Seconds later, Beat XXXXX called out "Emergency."
- 01 May 2015, 0321 hours, Beat XXXXX announced XXXX and XXXXXXX we need someone to help us. One got away, but we got the gun and one in custody. Squad be advised that we have shots fired." An unidentified unit comes on the air and stated, "Shots fired by the police." XXXXX follows up and states "one shot squad."
- 01 May 2015, 0322 hours, Beat XXXXX gives out the description of a "male XXXXX, XXXX— XXXX, XXX lbs., wearing a XXXX XXXXXXX." The subject was last seen running at "XXX XX XXXX XXXXXXX in the south alley running eastbound. Jumped one of the fences."

- 01 May 2015, 0407 hours, Beat XXXX requests "officers to report to XXXXX XXXXXXXXXX to check on a possible suspect who was shot that ran from the police at XXX XX XXXX XXXXXXXX." Beats XXXX and XXXX responded.
- 01 May 2015, 0419 hours, Beat XXXX announced "Offender in custody at XXXXX XXXXXXXXXX."

The **POD (Police Observation Device) Video Footage** from POD #063, located at XXXX XX XXXXXXXXXX XXXXXX was obtained and viewed. There was no relevant footage pertaining to this investigation. (Att. #66-67)

Surveillance Footage from a camera located at XXX XXXX XXXXXXXX was viewed. The video captured a marked squad car drive around a vehicle and stop in front on the vehicle facing west in the westbound lane of XXXX XXXXXXXX. The view of the subject's vehicle was blocked by a tree. Moments later, a subject was seen running east down the sidewalk away from the camera. A second individual ran behind the subject. The video then captured the response of several squad cars in the minutes that followed. The video did not capture the officer involved shooting. Due to a technical malfunction, the video could not be extracted from the camera server. (Att. #40)

IPRA Investigators conducted a canvass, in an attempt to locate additional witnesses and/or evidence. Additional information was not discovered. (Att. #37)

Medical Records from XXXXXXXX XXXXXXXXXX indicated that Subject 1 sustained one through and through gunshot wound to the left side of his chest. (Att. #78)

The **CPD Forensic Services Division Records** (Crime Scene Processing Reports, Video of Scene, Evidence Technician Photographic Records and Inventory Sheets) were obtained and incorporated into this investigation. The firearm of Officer C was recovered and inventoried for further forensic testing. (Att. #13, 26, 28, 49, 61-65, 92).

Illinois State Police Forensic Science Laboratory Reports document the examination of recovered ballistic evidence, in comparison to the firearm belonging to Officer C. The firearm tested was found to be in proper firing condition. Based upon analysis of ISP Reports and Forensic Reports, it was determined that Officer C fired one (1) time. The shell casing and fired bullet were compared to Officer C's firearm and found to match his weapon.

The recovered ballistic evidence from the scene of the earlier armed robbery at XXXX XX XXXXXXXXXX XXXXXXXX was tested and compared to the firearm belonging to Subject 1. The firearm tested was found to be in proper firing condition. Based upon analysis of ISP Reports and Forensic Reports, it was determined that the firearm belonging to Subject 1 was fired four (4) times in the incident at XXXX XX XXXXXXXXXX XXXXXXXX. The shell casings and fired bullets were compared to Subject 1's firearm and found to match his weapon. (Att. #94-95)

In his statement to IPRA on 25 August 2015, **Detective B** related that the preliminary supplement report was generated immediately after he returned from the scene and was not an approved report. Detective B clarified that Officer C told him that when Subject 1 made contact with him, his firearm accidentally discharged. Detective B explained that preliminary supplement report was inaccurate, as he did not have a full understanding of the events when he first authored it. Detective B added that the final detective supplementary report includes all the facts and was approved by a supervisor. (Att. #90)

In his statement to IPRA on 04 May 2015, **Officer B** related he was assigned to beat "XXXXX" with Officer C. As they were driving down XXXXXX and approached XXXX XXXXXXXX, they observed a female screaming that she had been robbed. Officers B and C talked to the female, now known to be Witness 2, who told the officers that she and her boyfriend, Witness 1, had just been robbed on XXXX XXXXXXXX. Officers B and C drove down XXXX XXXXXXXX where they made contact with Witness 1. Witness 1 stated that he had just been robbed at gun point and the offenders had taken off down XXXXX XXXXXXXX. Officers B and C drove down XXXXX XXXXXXXX in an effort to locate the offenders. After several minutes of patrolling the area, they did not see any individuals meeting the description they had been given and returned to XXXX XXXXXXXX where Witness 2 and Witness 1 had remained waiting.

Upon their return to XXXX XXXXXXXX, Officers B and C found that Officer A was also at the scene. Witness 1 told the officers that he had used the "Find My iPhone" app to locate his cell phone and that the app indicated that his cell phone was on XXXX XXXXXXXX. Officer A then allowed Witness 1 and Witness 2 to get into his squad car and began to drive towards 43rd Street in search of Witness 1's cell phone. Officers B and C followed in their squad car.

Once they were in the area of the XXX XXXXX of XXXX XXXX XXXXXXXX, they observed a vehicle that was slowly driving westbound with its hazard lights on. Officer A pulled in front of the subject vehicle and Officer B positioned his squad car behind the vehicle. Officer B approached the driver's front door of the vehicle with Officer A. Officer C approached the passenger side. Officer B heard Officer C repeatedly instructed the front seat passenger, Subject 1, to show his hands. Officer B noticed that Subject 1 was holding a Styrofoam container. Officer B fixed his attention on the driver of the vehicle. Officer B then observed Subject 1 exit the vehicle quickly and then he heard a gunshot. Officer B was positioned on the driver's side of the vehicle and could not "see through the car" because he was "looking directly"⁴ at the driver. Officers C and A then pursued Subject 1 on foot east on XXXX XXXXXXXX and then turned right on to XXXXXXXX and out of view from Officer B. Officer B never left the car to pursue Subject 1. (Att. #57-58)

In his statement to IPRA on 05 May 2015, **Officer A** provided an account of the events that was similar to that provided by Officer B. Officer A added that he was assigned to beat "XXXX" when he had contact with Witness 1 and Witness 2 while on patrol. Witness 1 and Witness 2 gave a description of the offenders and the vehicle they drove off in. After Witness 1 used the phone app to locate his phone and observed that it was on XXXX XXXXXXXX, Officer A put Witness 1 and Witness 2 in his squad car and they traveled to XXXX XXXXXXXX. Officer A

⁴ Officer B, Att. 58, Page 29, Lines 23 and 27

drove west and located a XXXX XXXX-XXXX vehicle driving at a slow rate of speed with the hazard lights flashing. Witness 1 and Witness 2 confirmed that the XXXX XXXX-XXXX vehicle was involved in the armed robbery. According to Officer A, pulled in front of the subject vehicle and positioned his squad car "three car lengths and turn[ed] the car perpendicular" relative to the subject vehicle.⁵ Officers C and B were in their squad car directly behind the subject's vehicle.

Officer A stated that he exited his squad car, approached the front passenger side of the subject's vehicle and ordered the subjects out of the vehicle. Officer A observed that the front passenger, Subject 1, matched the description of the offender given by Witness 2. Subject 1 exited the vehicle holding a plate of food. Officer C, who was standing between the front and rear passenger side doors of the subject's vehicle, ordered Subject 1 to drop the food and put his hands up. Subject 1 dropped the food and charged at Officer C. Officer A saw Subject 1 make contact with Officer C, enough so that Officer C began to fall backwards and Officer A then heard a gunshot. Officer A did not see Officer C discharge his weapon, as Subject 1 blocked his view of Officer C. Officer A saw that Officer C stumbled backwards, but did not fall. Subject 1 then ran eastbound down XXXX XXXXXX and made a right onto XXXXXXXX.

Officer A and Officer C pursued Subject 1 on foot. Subject 1 then turned left down an alley between XXXX XXXXXX and XXXX XXXXXX. Officer A followed and observed Subject 1 enter a rear yard. Officer A stopped his pursuit because he was alone and was unfamiliar with the area. Officer A turned around and made his way back to his squad car. As he exited the mouth of the alley, Officer A met Officer C, who had recovered a gun. Officer A related that Officer C told him that he fired his weapon during the incident. Officer A went over the air and stated "shots fired by the police." Officer A and Officer C returned to the subject's vehicle, where assisting units eventually arrived. Officer A recalled that Witness 1's cell phone was found inside the subject's vehicle. Officer A later relocated to XXXXX XXXXXXXXXX where he identified Subject 1, who had admitted himself into the emergency room for a gunshot wound. (Att. #59-60)

In his statement to IPRA on 01 July 2015, **Officer C** related that he and his partner, Officer B, were on patrol when they were stopped by Witness 2. Witness 2 told the officers that her boyfriend was being robbed on XXXX XXXXXXX. Officers C and B drove to XXXX XXXXXXX, where they met Witness 1, who recounted that he had been robbed at gunpoint and that the offenders fled in a light colored vehicle, traveling westbound on XXXX XXXXXXX. Officer C and Officer B patrolled the area in an effort to locate the vehicle. After patrolling the area without success, Officers C and B returned to the where they had left the robbery victims. Upon return, they learned that the offenders had taken Witness 1's iPhone and that the phone had been tracked to XXXX XXXXXXX and XXXXXXXXXX XXXXXXX.

Officer C and Officer B drove to XXXX XXXXXXX, while Officer A did the same with Witness 1 and Witness 2 in his squad car. Officer A was the lead car and called Officer C and Officer B to inform them of where the phone was traveling. Officer A traveled westbound on XXXX XXXXXXX with Officers C and B behind him. While traveling, Officer C observed a

Officer A, Att. 60, Page 12, Lines 1-2

vehicle traveling, Officer C observed a vehicle traveling at a slow speed with its hazard lights flashing. Officer A pulled in front of the vehicle, essentially blocking the vehicle off, while Officer C and Officer B positioned their squad car behind the vehicle. Officer C reported exiting the vehicle with his gun drawn and announcing his office as he approached the front passenger side of the vehicle.

Officer C ordered the front passenger, Subject 1, to show his hands. Subject 1 exited the vehicle with a Styrofoam food container in his hands. Officer C, who was "an arm's length away"⁶ from Subject 1, ordered Subject 1 to drop the food and again show his hands. Subject 1 then dropped the food and as he did so, Officer C observed that Subject 1 had a gun with an extended magazine in middle of Subject 1's waistband. Just then, Subject 1 charged at Officer C, striking Officer C's shoulder. According to Officer C, when Subject 1 charged and made contact with him, Officer C's weapon discharged a single round. Officer C indicated that the weapon's discharge was accidental as a result of Subject 1 making contact with Officer C. Subject 1 then ran eastbound down XXXX XXXXXX. Officers C and A pursued him on foot and gave multiple orders for Subject 1 to stop.

As they were in pursuit, the weapon fell out of Subject 1's waistband and onto the ground. Officer C recovered the weapon and secured it. Officer C continued into the alley where he observed Subject 1 enter the rear yard of a residence. Officer C stopped pursuing Subject 1 and decided to return to the scene because Officer B was alone with the other two offenders. Officer C never went to XXXXX XXXXXXXX to identify Subject 1. Officer C denied being inattentive to duty when he discharged his firearm resulting in Subject 1 sustaining a gunshot wound, as Officer C had his gun drawn when he exited his vehicle, and that Officer C's weapon fired one round due to the physical contact with Subject 1. Officer C further related that he notified his superiors on the scene that he discharged his weapon by accident due to Subject 1 charging and making contact with him. (Att. #85-86)

In his second statement to IPRA on 30 March 2017, **Officer A** stated and/or clarified that on the date of incident, Witness 1 and Witness 2 made it known to him that they were victims to an armed robbery. Witness 2 **had** a tracking device on her cell phone which allowed her to locate Witness 1's cell phone. Officer A stated that he placed Witness 1 and Witness 2 in his vehicle so that they could track the phone and potentially identify the offenders. Witness 2 used her tracking device on her cell phone to guide Officer A to the area of XXX XX XXXX XXXXXX.

While en route to the area, Officer A had his emergency lights activated. However, upon arriving near the area of incident, Officer A turned off his emergency lights to not draw attention to his vehicle.

As Officer A drove past the offender's vehicle, Witness 1 and Witness 2 identified the vehicle as appearing to be that of the offenders. Officer A pulled over approximately three car lengths in front of them. Officer A positioned his vehicle perpendicular across the flow of traffic, so that he could better observe the offenders' vehicle. Officer A instructed Witness 1 and Witness

⁶ Officer C, Att. 86, Page 14, Lines 10-11

2 to stay inside of the police vehicle and they complied.

Officer A exited his vehicle, with his weapon drawn, and approached the offender's vehicle along with Officer C and Officer B. Subject 1 exited the vehicle and shortly thereafter, Officer A heard a gunshot go off. Subject 1 fled the scene and Officer A gave chase. Officer A knew that Witness 1 and Witness 2 were safe as they were in a police secured vehicle and the threat, being that of Subject 1 with a firearm, was going in the opposite direction. In addition, Officer C and Officer B had remained on scene as Officer A gave chase.

According to Officer A, he described the incident as being in progress, a "fluid" situation. Officer A stated that he did not leave the area of XXX XX XXXX XXXXXX with Witness 1 and Witness 2, as he did not want to leave Officer C and Officer B behind to contend with the three robbery suspects by themselves.

Officer A denied that he was inattentive to duty and denied that he endangered Witness 1 and Witness 2, by positioning his vehicle in front of and/or near the offender's vehicle. According to Officer A, he stopped his vehicle at a safe distance from that of the offender's to ensure that there was enough space between them. Officer A stated that if at any time he had felt that they were not safe from where he positioned his vehicle, he would have further distanced his vehicle.

Officer A stated that he took into consideration that the offenders might have had a weapon. Officer A stated that he believed that Witness 1 and Witness 2 were safer in his protective custody than they could have been anywhere else.

As of the date of this report, the Authoring Investigator is no longer employed by the IPRA. Investigator C reviewed the investigation and edited the summary as needed.

CONCLUSION AND FINDING:

The Independent Police Review Authority recommends that **Allegation #1**, that Officer C was inattentive to duty when he accidentally discharged his firearm, which resulted in Subject 1 sustaining a gunshot wound, be **UNFOUNDED**.

Although Detective B's Supplementary Preliminary Report dated 01 May 2015 indicated that Officer C's firearm discharge was intentional, the balance of the evidence indicates that it was an accidental discharge. The circumstances of the discharge as described by Officer C were plausible given the sequence of events. Officer C's account was consistent with those of the other officers.

In his interview, Officer C was candid and forthcoming regarding the circumstances surrounding the discharge of his weapon, and admitted that he did not intend to fire his weapon at Subject 1. Officer C reported that when Subject 1 made physical contact with Officer C, his weapon discharged one round due to the force of the contact.

Chicago Police Department's Rule 10 prohibits inattention to duty. In this case, at the beginning of the encounter, Officer C had his firearm drawn and at the low ready position while instructing Subject 1 to exit the vehicle. This is in accordance with CPD Firearms Training. When Subject 1 exited the vehicle, Officer C gave him verbal commands to show his hands. At that time, Subject 1 dropped the food he was holding and Officer C was able to see that Subject 1 had a firearm in his waistband. Officer C began to raise his weapon and offer additional verbal commands, when Subject 1 lunged forward, charging Officer C and colliding with him in an effort to escape. The discharge of Officer C's weapon was caused by the physical contact between Subject 1 and Officer C. This physical contact was initiated by Subject 1 when he rushed at Officer C while Officer C's arm was outstretched and pointing his weapon at Subject 1. Officer C did not intentionally shoot Subject 1, nor did he exhibit a lack of attention necessary for a finding of inattention to duty. The physical act of Officer C pulling the trigger was caused by the physical act of Subject 1 slamming into Officer C. There was no inattention to duty.

Officer C was not in violation of CPD policy when he drew his weapon and pointed it in the direction of Subject 1, given the sequence of events that led to their contact. It was Subject 1's actions, not Officer C's, which resulted in the discharge of Officer C's firearm. For the reasons therefore stated, the IPRA recommends that this allegation be **UNFOUNDED**.

The Independent Police Review Authority recommends that **Allegation #1**, that Officer A was inattentive to duty when he endangered Witness 1 and Witness 2, by positioning his vehicle, with them inside of it, in front of and/or near the offenders' vehicle, be **SUSTAINED**.

Officer A conducted a preliminary investigation and took action to identify the offenders with the assistance of Witness 1 and Witness 2. Witness 2 assisted the officers in their investigation by locating the offenders with the tracking application on her cell phone.

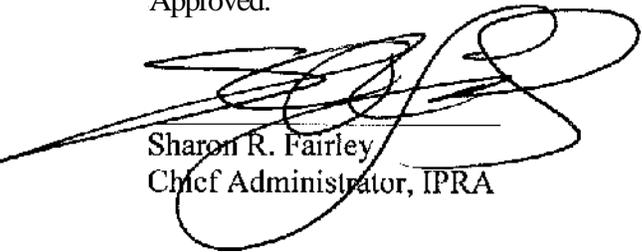
Officer A elected to drive the two citizens into the area where the stolen phone was believed to be located based on the phone app, in an effort to both find the subjects and to allow the victims to potentially identify them and / or the vehicle they were in. Officer A's efforts were ultimately successful and the initiative taken by Officer A certainly led to the successful apprehension of Subject 1, Subject 3 and Subject 2. However, there were potential dangers and degrees of inattentiveness as to the safety of Witness 1 and Witness 2 that must be addressed.

Upon Officer A's first encounter with Witness 1 and Witness 2, he had learned that they were robbed at gunpoint. Therefore, Officer A knew that, if they were able to locate the subjects via the use of the phone app, it was likely that a firearm would be present in the vehicle and/or in the possession of one of the subjects. Nonetheless, Officer A elected to pull alongside, and then in front of, the suspect vehicle with the two civilians as his passengers unnecessarily placing their safety at risk. Officer A exited his vehicle and left Witness 1 and Witness 2 in the rear seat, in close proximity to the suspect vehicle — which Officer A knew was likely to be occupied by at least one armed individual, who had previously committed a forcible felony (armed robbery).

Although Officer A claims that he positioned his vehicle at a safe distance from the suspect vehicle, this assertion is inconsistent with the accounts of the other involved officers and the civilian witnesses which stated that the vehicle was positioned in a manner which blocked the car's path of travel.

Although Officer A may not have intentionally placed Witness 1 and Witness 2 in harm's way the fact of the matter is that he placed them in close proximity to a law enforcement action, namely, the pursuit and arrest of an armed robbery suspect which could have and actually did, in fact, end in a firearm's discharge. The tactical choice, during a high-risk traffic stop of a vehicle occupied by armed suspects, with civilians present in his vehicle, was unsound. Chicago Police Department's Rule **10** prohibits inattention to duty. As a police officer, Officer A's duty is to protect others in his care, this action shows an inattention to that core duty. The allegation is supported by sufficient evidence to prove that Officer A was inattentive to duty. For the reasons therefore stated, the IPRA recommends that this allegation be **SUSTAINED**.

Approved:



Sharon R. Fairley
Chief Administrator, IPRA

FINDINGS:

Accused: **Officer A**

Allegation #1: **SUSTAINED** — Violation of Rule 10: "Inattention to Duty;" when he endangered Witness 1 and Witness 2, by positioning his vehicle, with them inside of it, in front of and/or near the offenders' vehicle.