

INTRODUCTION:

On 19 June 2016, Officers Officer A and Officer B (Beat 4312A) and Officers Officer C and Officer D (Beat 4312D) were assigned to patrol an area around the Puerto Rican Festival. At approximately 2104 hours, the officers observed a group of people near the southeast corner of North and Washtenaw Avenues. They had been directed to pay attention to that area because of recent gang conflicts. When they approached the corner to request that the group disperse, the Subject, Subject 1, ran away from the crowd. Subject 1 held his side as he ran, an action that made the officers think he had a gun. After unsuccessfully attempting to cut off Subject 1's path by car, Officer A got out of the vehicle and chased Subject 1 on foot. During the pursuit, Officer A saw a gun in Subject 1's hand. Officer A yelled at Subject 1 to drop the gun, which Subject 1 did not do. Subject 1 turned his upper body toward Officer A and pointed the gun at him. Officer A removed his own gun from the holster and fired two shots at Subject 1, striking him.

INVESTIGATION: CPD**Interviews**

Involved Officer A made a statement to IPRA on 13 July 2016. He stated that on 19 June 2016, he was assigned to the Puerto Rican Festival and working with Officer B. Their specific assignment was to patrol the area surrounded by Division Street to the south, North Avenue to the north, California Avenue to the west, and Western Avenue to the east. That area was chosen because of an ongoing conflict between two rival gangs. Officers D and C were patrolling with them, in another vehicle immediately behind them. While they were on patrol, the officers saw a group of approximately ten people standing near the corner of North and Washtenaw Avenues, outside of the festival area. Officer A stated that this is an area the officers knew to be a gang spot. Several people in the group were wearing clothing that Officer A believed from his prior policing experience to be related to one of the gangs. Officer A decided to approach the group to disperse them.

As he started to drive toward the group, one of the individuals (later identified as Subject 1) separated from the group and walked south on Washtenaw. According to Officer A, it appeared that Subject 1 was trying to separate himself from the rest of the group. Officer A turned his police vehicle south onto Washtenaw to get in front of Subject 1. As he did, Subject 1 turned around and walked north instead. Officer A saw that Officers D and C had stopped their vehicle at the southeast corner of North and Milwaukee. Subject 1 then began to run north on Washtenaw. Officer A observed Subject 1 holding the right side of his waistband as he ran. Based on his experience, Officer A believed that Subject 1 was running in that fashion because he had a gun. Officer A momentarily lost sight of Subject 1 when Subject 1 turned east on North Avenue. After Officer A maneuvered his vehicle around traffic so that it was facing east on North Avenue, he saw Subject 1 running across the street. After Subject 1 reached the sidewalk on the north side of

North Avenue, he ran west toward Washtenaw. Officer A pulled his vehicle onto the sidewalk close to an apartment building at the northeast corner in an attempt to stop Subject 1. Subject 1 was able to get between the Officer A's vehicle and the apartment building to continue running north on Washtenaw. Subject 1 hit the Tahoe's hood with his left hand as he ran around it. At that point, Officer A saw a black object in Subject 1's right hand. Officer A immediately put the Tahoe into Park and got out to run after Subject 1.

Subject 1 was on the sidewalk and Officer A was in the middle of the street as they both ran north on Washtenaw. Officer A was approximately 15-20 feet behind Subject 1 as they ran. Officer A momentarily lost sight of Subject 1 behind a garbage dumpster. He slowed down to see whether Subject 1 was going to change direction, hide, or keep running north. Subject 1 came out from behind the dumpster and started running east across Washtenaw. Officer A could clearly see a gun in his right hand at that point. Officer A yelled for Subject 1 to drop the gun. Subject 1 continued running across the street. Officer A ran behind him. Subject 1 twisted his body in a counterclockwise motion in Officer A's direction. This movement allowed Officer A to clearly see the gun, which was pointed at him. Subject 1 was in or near the alley at this point and Officer A was in the street approximately 5-10 feet behind him. Officer A removed his own gun from the holster and fired two shots at Subject 1.

Subject 1 took one or two more steps and fell to the ground. He threw the gun in the air as he fell, causing it to land in the grass north of the alley. Officer A put his knee on Subject 1's back and handcuffed him. Subject 1 did not struggle with the handcuffing. Officer A patted down Subject 1 to make sure there were no other weapons. When Officer D approached, Officer A directed him to secure the gun that was in the grass. Officer D stood over the gun to make sure that no one else touched it. Officer A used his radio to request an ambulance and report the shooting. Officer A observed that Subject 1 was bleeding from his right leg. Officer A got a tourniquet from Officer D and used it to stop the bleeding. Officer A had some first aid training earlier in his career and used that knowledge to assist Subject 1 while they waited for the ambulance. (Attachments 58, 75)

According to **Witness Officer B**, in a statement to IPRA on 13 July 2016, she and Officer A were working together on 19 June 2016 and assigned to patrol the outer perimeter of the Puerto Rican Festival. The officers saw a group of people near the intersection of Washtenaw and North Avenues, some of whom were "flashing gang signs."¹ The officers were aware of gang conflict in that area and wanted to talk to the group and have them disperse to avoid the chance that they would be involved in a shooting or another crime. Officer B explained that they had done that with another group at the same location earlier in the day. The group started walking south when the officers turned onto Washtenaw. Before the officers reached the group, an individual in a red shirt (Subject 1) broke off from the group and started walking east.' (Attachment 74, page 14, line 15)

As the officers maneuvered their vehicle onto North Avenue, Subject 1 ran across the street and went north on Washtenaw. Officer B saw that Subject 1 was holding the right side of his pants as he ran. Officer A pulled their vehicle onto the sidewalk at the northeast corner to cut off Subject 1's flight path, but Subject 1 was able to run in front of the car. At that point, Officer B saw that Subject 1 had a black object in his hands. Officer A put the Tahoe in park, got out, and ran after Subject 1. As is their normal practice, Officer B secured the vehicle before she got out and followed. She heard two or three gunshots as soon as she started running. The gunshots sounded close, but Officer B could not see who fired. When she reached the alley, she saw Officer A placing Subject 1 into custody. Officer B then turned her attention to another individual (Civilian 1) who was approaching Officer A in an aggressive manner. Officer B tried to stop Civilian 1, but he pushed and pulled away from her to continue running south. Officer C ran after Civilian 1. Officer B reported the foot pursuit over the radio and returned to where Officers A and D were. (Attachments 57, 74)

According to **Witness Officer D**, in a statement to IPRA on 21 July 2016, he was working with Officer C on 19 June 2016, assigned to patrol an area near the Puerto Rican Festival. Officers A and B were patrolling with them in another vehicle. While they were on patrol, they saw a group of teenagers at the corner of Washtenaw and North Avenues. Officer A shined his spotlight at the group, which caused them to start walking away. One of the people in the group (Subject 1) ran east on North Avenue. As the officers followed Subject 1 in their vehicles, Officer D saw that he was holding his side with both hands, which made Officer D think that Subject 1 was holding a gun at his side. Subject 1 crossed North Avenue in front of Officers D and C's vehicle. Officer D got out of the vehicle and ran after Subject 1. Officer A moved his own vehicle across North Avenue and tried to cut off Subject 1's path. Subject 1 ran around Officer A's vehicle and ran north on Washtenaw. Officer D saw that Subject 1 had something in his right hand. He could not clearly see what it was, but his training led him to believe it was a gun.

Officer A got out of the vehicle and ran after Subject 1. Officer D ran into the street after Officer A. Subject 1 turned east into an alley and Officer A followed him. Officer D lost sight of them at that point because there were several parked cars blocking his view. Officer D heard two or three gunshots but did not see who fired. Officer D reached the alley and saw Officer A kneeling beside Subject 1, who was on the ground. Officer A pointed to a grassy parkway next to the alley. Officer D went to the parkway and saw a gun in the grass. He knelt next to the gun to make sure that no one touched it. Officer D gave Officer A a tourniquet so he could tend to Subject 1's injuries. Officer D did not see Officer A remove his gun from the holster or point it at Subject 1. He did not have sight of either of them when he heard the gunshots. (Attachments 62, 77)

According to **Witness Officer C**, in a statement to IPRA on 12 July 2016, he was assigned to patrol the outer perimeter of the Puerto Rican Festival on 19 June 2016 with his partner, Officer D. They were also working with Officers A and B, who were in front of them in another vehicle. As the officers were going east on North Avenue, they saw a group of people at the southeast corner of North and Washtenaw Avenues. Officer A approached the group in his vehicle. One individual (Subject 1) was holding his side and running east on North Avenue. Subject 1 had both hands in his waistband at his right hip. Based on previous experience, Officer C thought Subject 1 was holding a weapon in his waistband. Officer C stopped his marked Tahoe approximately 50 feet east of the corner where he saw the group of people. He saw Subject 1 cut behind the Tahoe to go north on Washtenaw. Officer D got out of the Tahoe and ran after Subject 1. Officer C made a U-turn, which took a while due to heavy traffic in the area. Officer C lost sight of Subject 1 when he made the U-turn.

Once Officer C was facing west, he heard two or three gunshots from the direction of the northeast corner of North and Washtenaw Avenues. He did not see who shot or what the circumstances were. Officer C tried to make his way in that direction but traffic would not allow him to do so. He saw Officer B get out of her and Officer A's vehicle, which was stopped on the sidewalk near the northeast corner. She ran north on Washtenaw when she got out of the vehicle. Traffic had cleared by that point so Officer C was able to go north on Washtenaw. Officer C saw Officer B struggling with someone whom he later learned was Civilian 1 near a dumpster on the west side of Washtenaw. It looked like Officer B was trying to handcuff Civilian 1, but he pushed away from her and ran south on Washtenaw across North Avenue. Officer C got out of his Tahoe and ran after Civilian 1. Approximately halfway down the block, Civilian 1 ran east through a housing project to the alley. Officer C reported this development over the radio. Sergeant G responded over the radio that Civilian 1 was in custody. Officer C had not yet reached the alley when he heard that but did not see Sergeant G take Civilian 1 into custody. Officer C then returned to the area where he heard the gunshots, which is the first time he learned that Officer A had shot Subject 1. (Attachments 56, 73)

Citizen Interviews

Subject 1 did not provide a statement related to this incident. Attempts to seek cooperation through his attorneys were unsuccessful. (Attachments 49, 50, 61, 72, 79, 88)

According to **Witness Civilian 2**, in a statement to IPRA on 20 June 2016, he was in the alley behind XXXX W. North Avenue walking his mother (Civilian 3) and his niece and nephew to his mother's car. He saw police cars in the area and heard commotion in front of the building. Civilian 2 walked toward Washtenaw and saw a young Hispanic male (Subject 1) running north on Washtenaw toward the alley. Civilian 2 did not see anything in Subject 1's hands as he ran. A police officer (Officer A) was running behind Subject 1. Officer A yelled at Subject 1 to stop and then immediately shot his gun at Subject 1. Civilian 2 saw the muzzle flash and heard three or four gunshots. Subject 1 fell to the ground. Civilian 2

pushed his mother into her car. His niece and nephew were already in the car. Officer A handcuffed Subject 1 and turned him over to search him. Civilian 2 did not see the officer find a gun or any other weapons. Civilian 2 did not hear any of the officers ask Subject 1 if he was okay. Civilian 2 recorded a video on his cell phone of what happened after the shooting, but he did not capture the shooting itself. Civilian 2 added that he was mad because he thought Officer A shot Subject 1 for no reason. (Attachment 20)

According to **Witness Civilian 3**, in a statement to IPRA on 27 July 2016, she exited her apartment building, located at the northeast corner of North and Washtenaw Avenues, to go to her car in the parking area behind the building. Her son (Civilian 2) and her grandchildren were with her. When she was in the parking area near the alley, she saw a young man (Subject 1) running and saw a police officer (Officer A) chasing him. She heard Officer A say something to Subject 1 as they ran but did not know what he said. Subject 1 was running east from Washtenaw in Civilian 3's general direction with the officer approximately 5-10 feet behind him. Civilian 3 saw a gun in Officer A's hand, pointed at Subject 1. She saw what looked like a "spark" from the gun and heard two or three gunshots. Subject 1 fell to the ground and Officer A handcuffed him. Civilian 3 never saw anything in Subject 1's hands and did not see him throw a gun. (Attachments 68, 76)

IPRA Investigators conducted two **canvasses** of the location of incident on 20 June 2016. They did not identify any additional witnesses to this officer-involved shooting. Civilian 1, who was arrested after the officer-involved shooting took place, declined to provide an interview to IPRA. (Attachments 24, 28, 29, 35, 46, 47, 78)

CFD Interviews

In a statement to IPRA on 11 April 2017, **CFD Paramedic 1** stated on the night of the incident he was the Paramedic In-Charge and was working with his regular partner, CFD Paramedic 2. Paramedic 1 reviewed the Ambulance Report he authored regarding this incident and stated that it was accurate. The narrative section of the report states:

PATIENT GIVES A BRIEF ACCOUNT OF INCIDENT STATING "I HAD A GUN." INITIALLY STATES HE WAS SHOT BY "THE COBRAS" THEN STATED HE WAS SHOT BY AN UNIDENTIFIED CPD OFFICER.

(Att. 41). Paramedic 1 explained that he quoted Subject 1 in the report because he wanted the report to accurately reflect what Subject 1 said to the paramedics. Paramedic 1 stated that he vaguely recalled the incident, but could not recall Subject 1 or the conversation they had. (Att.)

In a statement to IPRA on 11 April 2017, **CFD Paramedic 2** stated that, on the night of the incident, she was working with her regular partner, Paramedic In-Charge Paramedic 1. Paramedic 2 reviewed the related Ambulance Report and stated that it was accurate. Paramedic 2 explained that Paramedic 1 authored the report on the night of the incident, and she reviewed it and signed it. Paramedic 2 stated that, when they responded to the officer involved-shooting, they found Subject 1 lying on the ground near an alley. It appeared that Subject 1 had sustained several gunshot wounds. Paramedic 2 observed that an unknown officer had placed a tourniquet on Subject 1's legs before the paramedics arrived. As Paramedic 2 was attending to Subject 1 he told her, "I don't feel good." Paramedic 2 replied, "I bet you don't." Paramedic 2 stated that Subject 1 then said to her, "I had a gun. It was dumb. I was stupid, I pulled it out and aimed." Subject 1 then repeatedly said, "It was dumb," and "I was stupid." According to Paramedic 2, Subject 1 did not tell her what or who he aimed his gun at, and she did not ask him any questions because she was more concerned with treating his injuries. Paramedic 2 never saw Subject 1's firearm. Paramedic 2 stated that they transported Subject 1 to Mt. Sinai and that he was conscious the entire time. (Att. 91)

CPD Reports

The **Arrest Report related to Subject 1's arrest (recorded under CB #19330167)**, which was authored by Officer A on 20 June 2016, reveals that officers of the Area North Saturation Team (Officers A, B, D, E, F, and C) approached Subject 1 to conduct a field interview. Subject 1 ran from the officers. As he ran, he held his waist as if he was holding a gun. Officers chased Subject 1 and observed him holding a black handgun in his right hand. Subject 1 pointed the gun at Officer A. Officer A fired his own firearm at Subject 1, striking him. Subject 1 threw the gun after he fell. Officers then placed him into custody. Subject 1 was charged with Aggravated Assault and Aggravated UUW. (Attachment 7)

Officer A' **Tactical Response Report** classified Subject 1 as an Assailant who used force likely to cause death using a weapon. The report specifically notes that Subject 1 pointed a gun at Officer A and that Officer A responded by firing two shots at Subject 1. (Attachment 8)

The **Arrest Report related to Civilian 1's arrest (recorded under CB #19330162)**, which was authored by Officer C on 20 June 2016, reveals that Civilian 1 ran toward the location of the officer-involved shooting and ignored several orders from the officers to stay away from the scene. When Officer B began to take Civilian 1 into custody, Civilian 1 pushed the officer and ran away from him. Sergeant G discovered Civilian 1 nearby and arrested him. Civilian 1 was charged with two counts of Resisting/Obstructing. (Attachment 10)

Officer B's **Tactical Response Report** classified Civilian 1 as an Assailant who attacked Officer B with a weapon, using force likely to cause death or great bodily harm. (Att. 11)

The **Detective's Supplemental Report (recorded under RD #HZ-XXXXXX)**, which was authored by Detectives A and B, documents the detectives' investigation into this incident. The detectives interviewed Officers A, B, C, and D, on the scene of the incident and again later at the Area North Headquarters. The officers accounts of the incident as provided to the detectives were generally consistent with the accounts as provided to IPRA.

The detectives also interviewed Civilian 2 and Civilian 3, who provided the accounts of the incident that were generally consistent with the accounts provided to IPRA. As described in his IPRA interview, Civilian 2 informed the detectives that he did not see a gun in Subject 1's hand. Civilian 2 added that he was watching the officer and did not see Subject 1's hands at the time of the shooting. Civilian 3 told the detectives that she did not focus on Subject 1's hands because she was initially focused on his face. She then turned her focus to Officer A and was not looking at Subject 1 at the time the shots were fired.

The Detective's Supplemental Report also includes summaries of interviews that detectives conducted with Subject 1 and Civilian 1. Subject 1 informed the detectives that he had a gun with him, which he identified as a Glock, that belonged to a friend. Subject 1 said that the gun fell from his waistband when he was "bumped" by a squad car. He picked up the gun and carried it in his hand as he ran north on Washtenaw. When he got to the mouth of the alley, he heard the officer behind him yell something. Subject 1 then stopped running and turned toward the officer. The gun, which was still in his hand, was pointed down. The officer then shot him and he fell to the ground. After Subject 1 was handcuffed, the officer tied something to his leg to stop the bleeding.

Civilian 1 informed the detectives that he and Subject 1 were at the southeast corner of North and Washtenaw Avenues with a group of 15-20 other people. When two marked police pulled up to the corner, Subject 1 said that he had to leave and ran across North Avenue and north on Washtenaw. Civilian 1 did not see Subject 1 with a gun, but he assumed that Subject 1 had something illegal because of the way that he ran from the police. The police chased Subject 1. Civilian 1 also ran in that direction to make sure that Subject 1 was okay. Civilian 1 was unable to see the location of the shooting because parked cars blocked his view. Civilian 1 heard a gunshot but did not see the shooting. When he tried to reach Subject 1, a female officer (Officer B) stopped him and tried to handcuff him. Civilian 1 broke away from her and ran away. Other officers stopped him in an alley near Washtenaw and LeMoyne.

Detectives also interviewed the paramedics who treated Subject 1. Paramedic 2

reported that Subject 1 told her he had a gun. Paramedic 1 reported that Subject 1 initially said that he was shot by a "Cobra"² and then said he was shot by a police officer. Subject 1 also told Paramedic 1 that he had a gun. (Attachment 87)

The **Crime Scene Processing Report** prepared by Forensic Investigator 1 on 20 June 2016 contains essentially the same information about the incident as in the other CPD reports described above. Forensic Investigators 1 and 2 recovered a black Springfield Armory semi-automatic handgun with eight live cartridges from the parkway³ and inventoried it for testing. The report notes that the gun had previously been reported as stolen. The investigators also inventoried Officer A's handgun, two spent cartridge cases, and other evidence from the scene. The investigators went to Stroger Hospital to photograph Subject 1 but were unable to do so because he was in surgery at the time. (Attachment 36)

Evidence Technician photographs show the recovered evidence and the scene of the shooting. The recovered black Springfield Armory is shown on the parkway next to the alley. One of the spent cartridge cases is shown in the alley and the other is on the sidewalk on the opposite side of the alley to where the gun is lying. There appears to be blood on the sidewalk in the opening to the alley. (Attachment 40)

Office of Emergency Management and Communications records reveal that officers reported a foot pursuit in the vicinity of XXXX W. North Avenue at XXXX hours on 19 June 2016. A weapon was reported to be recovered 27 seconds after the start of the pursuit. Officers made an effort to clear the street so an ambulance could get through at 2111 hours. A woman who was later identified as Civilian 4⁴ called 911 at 2104 hours to provide information about two men she saw run from the police at this location. (Attachment 17, 39)

An **Illinois State Police Division of Forensic Services** dated 28 November 2016 reveals that Officer A' handgun was examined and determined to be functioning properly. The two fired cartridge cases that were recovered from the scene were examined and determined to have been fired from Officer A's weapon. (Attachment 85)

An **Illinois State Police Division of Forensic Services** dated 23 January 2017 reveals Subject 1's handgun, the magazine, and the live cartridges, recovered from the scene of this incident did not have any latent prints suitable for comparison. (Attachment 86)

Video Evidence

² A Latino street gang predominantly based in the Humboldt Park neighborhood

³ A report from IPRA Supervisor 1, who was present when this weapon was recovered, indicates that it was found at approximately XXXX N. Washtenaw.

⁴ Civilian 4 informed IPRA that she heard gunshots in the area and heard someone yell about a shooting, but she did not actually witness the officer-involved shooting or what led to it. (Attachment 34)

Video recordings from Tip Top Wine and Spirits Liquor Store, located at XXXX W. North Avenue, show Subject 1 running northwest across North Avenue and turning onto Washtenaw to continue running north. Officer A drove his Tahoe onto the sidewalk at the northeast corner of that intersection but Subject 1 ran in front of the Tahoe. It appears that he struck the vehicle with his left hand as he passed it. Subject 1 can be seen with a gun in his right hand as he ran north on Washtenaw. The cameras do not have a view of the location of the shooting, which occurred just outside the frame of the northernmost camera. (Attachments 63, 80)

Video recordings from the apartment building at XXXX N. Washtenaw Avenue show Subject 1 and the officers running on Washtenaw. The cameras do not have a view of the location of the shooting. (Attachments 65, 83)

A **cell phone video recording** from Civilian 2 shows the aftermath of the shooting rather than the shooting itself. Subject 1 is lying on the sidewalk in handcuffs. Officer A appears to be providing first aid assistance to Subject 1 throughout the three-minute video. (Attachment 52)

Additional video recordings were obtained from the building at XXXX W. North Avenue and the Cermak Produce at XXXX W. North Avenue. These cameras did not have a view of the location of the shooting and did not have any images relevant to this investigation. Video recordings from POD 1126, located at XXXX N. Talman, were unavailable because the camera suffered a technical difficulty. There were no other POD cameras in the vicinity of this incident, and there were no in-car camera recordings from the involved vehicles. (Attachments 13, 38, 42-43, 53, 60, 64, 81, 82)

Medical Evidence

The **Chicago Fire Department ambulance report** reveals that the paramedics found Subject 1 lying in the alley when they arrived. The paramedics discovered one gunshot wound to the right thigh, one gunshot wound to the left thigh, and two possible gunshot wounds (either entrance or exit) to the left hip/buttock. The paramedics did not find any other wounds on Subject 1 when they examined him, and he denied having any other further wounds. The paramedics noted the presence of blood on the scene in the alley. Subject 1's wounds had a minimal amount of bleeding that was already controlled with bandages. Subject 1 told the paramedics that he had a gun. He initially reported that he was shot by "the cobras" and then said he was shot by a police officer. Subject 1 was conscious and alert throughout his encounter with the paramedics and obeyed all directions they gave him. They transported him to Stroger Hospital without incident. (Attachment 41)

Medical records from the Cook County Health & Hospitals System reveal that Subject 1 arrived at Stroger Hospital on 19 June 2016 in critical condition and was discharged on 11 July 2016. At the time of his hospital admission, Subject 1 was noted to be in mild distress and anxious. Subject 1 sustained four gunshot wounds (two entry; two exit) to his left hip, left thigh, left buttock, and right thigh. CT scans confirmed that one bullet entered the left pelvis and exited the left thigh, and the other bullet entered the left buttock and exited the right thigh. (Attachment 71)

The synoptic report reveals that Sergeant H from the Bureau of Internal Affairs conducted a breathalyzer test with Officer A at 0249 hours on 20 June 2016 and collected a urine sample from him at 0305 hours. The breathalyzer results reflected a blood alcohol content of .000 and the drug analysis of the urine was negative. (Attachment 51)

ANALYSIS

CPD Policy, Illinois State Statute, & Constitutional Standards

A Chicago Police Officer is permitted to use deadly force based on: Chicago Police Department's Policy regarding the use of deadly force, Illinois State Statute, and applicable standards within the United States Constitution.

CPD's Policy regarding the use of deadly force as identified in General Order 0302-03, which was in effect on April 11, 2016, states that a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

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

The legal standard in Illinois regarding the use of deadly force is identified in Illinois State Statute 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...

Lastly, 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)).

1. Subject 1 was armed with a firearm.

All four of the officers involved in this incident reported seeing Subject 1 holding his side as he ran, as if he was holding something thought to be a gun, in his waistband. Officer A reported seeing an object in Subject 1's hand later in the chase, and reported that he clearly saw that the object was a gun when they were on Washtenaw Avenue. A video recording from the liquor store's exterior security camera on that street shows that Subject 1 had an object that looked like a gun when he was running toward the alley where he was eventually shot. Furthermore, a black semi-automatic handgun was recovered in the grassy area near the entrance of the alley where Officer A shot Subject 1.

Civilian 2 and Civilian 3 both stated that they did not see Subject 1 holding a gun, but they informed the detectives that they were not focused on Subject 1's hands at the time.

Subject 1 admitted to the detectives that he was holding a gun in his hand as he ran. He also told the detectives that he turned toward Officer A while he had a gun in his hand. Subject 1 also reported to a Chicago Fire Department Paramedic that he was in possession of firearm at the time of the incident.

2. Officer A was reasonable in his belief that Subject 1 was a threat after he refused to obey commands to stop, and turned towards the officer with his gun in his hand.

When Subject 1 turned toward Officer A with a gun in hand, it was reasonable for Officer Craven to believe that his life was in danger. The incident occurred quickly, during a chase, where Subject 1 was evading arrest while in possession of a deadly weapon. Officer

Craven was forced to make a split second judgment regarding his safety. This incident occurred on the perimeter of a heavily populated festival, on a summer evening where multiple citizens were outside. Subject 1 not only posed an immediate threat to Officer A, but also posed a threat to the safety of others.

CONCLUSION AND FINDING

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. Subject 1 ran with a gun in hand and then turned toward Officer A, pointing the gun in his direction. The use of deadly force by Officer A against Subject 1 was objectively reasonable and within Department Policy as outlined by the Chicago Police Department's General Order 03-02-03, III, and complied with Illinois State statute and applicable constitutional standards.