

29 September 2017

TO: Deputy Chief Administrator
Civilian Office of Police Accountability

FROM: Major Case Specialist

SUBJECT: Log #XXXXXXXXX
U #XXXX

REFERENCE: RD# HY-210364– Aggravated Assault

DATE/TIME: 04 April 2015, 1619 hours

INVOLVED

OFFICER #1: Officer A; Chicago Police Officer; Star #XXXXXX; Unit 311; W/M; Employee #XXXXXX; DOB: XXXXX; DOA: 07 Aug 95; On-Duty; In Plainclothes; Assigned to Beat XXXX.

OFFICER #1's

WEAPON: Glock model 30; 9mm semi-automatic pistol; Serial # XXXXXX; City Registration # XXXXXXXX; FOID # XXXXXXXX; Zero (0) live rounds recovered from firearm; Total weapon capacity of eleven (11) rounds (10+1); Fired eleven (11) times.

OFFICER #1's

INJURIES: None Reported.

INVOLVED

OFFICER #2: Officer B; Chicago Police Officer; Star #XXXXXX; Unit 311; W/M; Employee #XXXXXX; DOB: XXXXX; DOA: 28 Oct 02; On-Duty; In Plainclothes; Assigned to Beat XXXXX.

OFFICER #2's

WEAPON: SIG Sauer model P229; 9mm semi-automatic pistol; Serial # XXXXXXXX; City Registration # XXXXXX; FOID # XXXXXXXX; Winchester 9mm Luger ammunition; Ten (10) live rounds recovered from firearm; total weapon capacity of fourteen (14) rounds (13+1); Fired four (4) times.

OFFICER #2's

INJURIES: None Reported.

WITNESS

OFFICER #1: Officer C; Chicago Police Officer; Star #XXXXXX; Unit 311; H/M; Employee #XXXXXX; DOB: XXXXX; DOA: 10 Jul 95; On-Duty; In Plainclothes; Assigned to Beat XXXXX.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

**WITNESS
OFFICER #1**

INJURIES: None Reported

SUBJECT: Subject 1; B/M; DOB: XXXXXX; Address: XXXX S. Rockwell Street, Chicago, IL. IR #XXXXXXXXXX.

**SUBJECT'S
INJURIES:**

One through-and-through gunshot wound to the right leg and one through-and-through gunshot wound to the left leg; Non-Fatal.

**SUBJECT'S
WEAPON:**

Keltec model PF-9; 9mm; semi-automatic pistol; See Crime Scene Processing Report.

LOCATION: XXXX S. Rockwell Street
Beat XXX

**TIME OF IPRA
NOTIFICATION:** 04 April 2015, 1650 hours

**TIME OF IPRA
RESPONSE:** 04 April 2015, 1730 hours

IPRA¹ ON SCENE: IPRA Deputy Cheif
IPRA Investigator

¹ COPA replaced IPRA.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

SUMMARY OF INCIDENT:

On 04 April 2015, at approximately 1619 hours, Officer A, #XXXXXX, Beat #XXXXXX, Officer B, #XXXXXX, Beat #XXXXXX, and Officer C, #XXXXXX, Beat #XXXXXX, were on routine patrol and working in a three-man unmarked vehicle.² The officers were in the area of XXXX S. Rockwell Street as there had been a shooting at that residence on 21 March 2015. As the officers drove past the home, they observed several male subjects gathered at the mouth of the south gangway, apparently engaged in a hand-to-hand transaction.

Officer C exited the rear passenger seat of the unmarked vehicle and attempted to initiate contact with the male subjects. One of the male subjects, now known as Subject 1, broke free from the group and fled west through the gangway. Officer A exited the police vehicle and ran towards the alley, while Officer C pursued Subject 1 on foot through the gangway. Officer B, the driver of the unmarked vehicle, drove towards the alley behind XXXX S. Rockwell Street in an attempt to intercept Subject 1.

As Subject 1 fled through the gangway, he turned towards Officer C and brandished a black semi-automatic handgun. Subject 1 attempted to fire the handgun at Officer C, but the handgun apparently misfired. Officer C then yelled, "Gun, gun!" Officer C continued to pursue Subject 1 into the backyard of XXXX S. Rockwell Street. As Officer C ran through the backyard, he encountered a group of unidentified male and female subjects, who attempted to grab Officer C by his clothing in an effort to assist Subject 1's escape.

Subject 1 continued to flee into the alley going south. As he fled, Subject 1 jumped over a fence and landed directly in front of the oncoming unmarked vehicle, which was traveling northbound, driven by Officer B. Officer A was also running north in the alley towards Subject 1 as he was jumping over the fence into the alley.

Subject 1 pointed his handgun at the officers as they approached him. Officer A discharged his firearm several times at Subject 1. Simultaneously, Officer B discharged his firearm multiple times at Subject 1 while still seated in the driver seat of the unmarked vehicle. Subject 1 continued to flee from the officers. As Subject 1 fled, he discarded his handgun along the fence line at XXXX S. Talman Avenue and then discarded a quantity of suspected narcotics at XXXX S. Talman Avenue. Subject 1 was eventually placed under arrest at XXXX S. Talman Avenue where he attempted to hide in the rear yard.³ Subject 1 was subsequently transported to Mt. Sinai Hospital for medical treatment.

APPLICABLE RULES:

² All officers were working together in one vehicle, which was a Ford Interceptor, Car Number "XXXX," with License Plate Number "XX XXXX."

³ Appendix A: Diagram of the vicinity of XXXX S. Rockwell Street.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Chicago Police Department General Order, GO 03-02-03; Deadly Force

INVESTIGATION:

I. Interviews

A. Civilian Interviews

IPRA attempted to interview Subject 1, but was unsuccessful. Subject 1 did not cooperate with IPRA's investigation. (Att. 66, 69)

In a telephone Conversation with IPRA on 09 April 2015, **Civilian 1** stated that, on the date and time that the shooting occurred, he was working on his vehicle in front of XXXX S. Talman Avenue. **Civilian 1** heard what sounded like approximately eight gunshots. He then observed a black male subject, Subject 1, running past him and into a gangway. Subsequently, officers approached **Civilian 1** and asked where Subject 1 went. **Civilian 1** did not have any further information to provide regarding this incident. (Att. 36)

Attempts to contact and interview **Civilian 2** several times met with negative results. (Att. 36)

B. Involved Officers' Interviews

In a statement with IPRA on 07 April 2015, **Officer A #XXXXX**, stated that, on 04 April 2015, he and his partners, Officer C and Officer B, were assigned to suppress gang and narcotic activity in the 008th District.⁴ Officer A had responded to a shooting in the 008th District two weeks earlier and he described the area as a "very violent" area with high gang activity, narcotic sales, and shootings. As the officers headed southbound on Rockwell Street, Officer C alerted his partners that he observed a hand-to-hand transaction in the gangway next to XXXX S. Rockwell Street, and told them to let him out. Officer B stopped the vehicle⁵ just south of the gangway and Officer C exited. Officer B continued to 62nd Street and drove in the alley between Rockwell Street and Talman Avenue.⁶ Officer B stopped at the first building in the alley and Officer A exited the police vehicle. Officer A heard Officer C yelling, "police, police, he's gotta gun!" Officer A ran north in the direction of Officer C's voice. When he reached the fence between the alley and the backyard of XXXX S. Rockwell Street, Officer A observed a black male, now known as Subject 1, running towards him with a semi-automatic

⁴ Involved Officer A stated at the time of the incident he had worked with Officer B for the past two years and Officer C for the past fourteen years.

⁵ Officer A stated Officer B was the driver of an unmarked police vehicle, he was the front seat passenger, and Officer C was seated in the backseat directly behind him.

⁶ Officer A stated he and Officer C have worked together for approximately ten to fourteen years and in situations where one officer goes to the front of a location, the partner will go to the back in case the offender runs in that direction.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

handgun in his right hand. Subject 1 placed one foot on a cement block and the other foot on a fence and jumped into the alley.

Officer A explained that as Subject 1 went over the fence, he pointed his handgun at Officer A. Officer A “spun” to his side and drew his firearm. Officer A yelled, “Police! Drop the gun!” but Subject 1 continued to point his handgun at the officer. According to Officer A, at that moment, Officer A was moving northbound on foot in the alley while Subject 1 pointed his handgun southbound. Officer A further stated that Subject 1 was approximately five to ten feet away as he pointed his gun in Officer A’s direction. Officer A then discharged his firearm at Subject 1. According to Officer A, he discharged his firearm because Subject 1 put him in fear of his life.

Officer A stated that he pursued, Subject 1 as he continued running in a southwest direction. As Subject 1 and Officer A ran in front of the unmarked police vehicle, Subject 1 pointed his handgun at Officer B, who was still seated in the driver’s seat. Officer B then discharged his firearm at Subject 1. Subject 1 then ran into the backyard of a residence on Talman Avenue⁷ and fell to the ground. Officer A observed that Subject 1 was not moving, so he turned his attention to Officer B to see if he was injured.

Finding Officer B to be unharmed, Officer A ran to the yard and observed that Subject 1 had gotten to his feet and managed to jump over a chain-link fence, at which time he ran west in a gangway toward Talman Avenue. Officer A followed the same route, but when he reached Talman Avenue he did not see Subject 1.

Officer A stated that, he observed Officer C run into a gangway approximately three houses north of Officer A’s location, now known to be XXXX S. Talman Avenue. Officer A ran into that gangway and found Subject 1 lying inside a basement stairwell. Subject 1 was handcuffed and detained without further incident. Officer A observed that Subject 1 was bleeding, but he did not observe his specific injuries. Officer A stated that, after the incident, he learned that Subject 1’s handgun had been recovered along the fence line between the properties where he had fallen, and that a quantity of cocaine had also been recovered. Officer A recalled he had seen Subject 1 before, but did not recall if he had arrested Subject 1 in the past. (Att. 28,34)

In a statement with IPRA on 07 April 2015, **Officer B #XXXXXX**, stated that, he was driving an unmarked police vehicle south on Rockwell Street when Officer C informed him and Officer A that he observed a narcotics transaction. Officer C asked to be let out of the vehicle to investigate. Officer B, who did not observe the narcotics transaction, stopped the car several doors down and let Officer C out. Officer B continued south on Rockwell Street, then west on 62nd Street, and then north in the west alley of Rockwell Street. Officers B and A then switched their radios from “zone” to “car to car”⁸ in order to communicate directly with Officer C. In the alley, Officer A exited the vehicle and Officer B drove slowly northbound in the alley. Officer B heard

⁷ The address is now known as XXXX S. Talman Avenue.

⁸ “Car to car” radio communication allowed Officer C to speak directly to Officer B Officer A.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Officer C's voice yelling, "stop, police! He's gotta gun!" and "he's comin' back toward you!" Officer B stated that he had his driver's window "about a third of the way up."

At that time, Officer B observed a black male subject, Subject 1, jump over a chain-link fence and point a dark-colored, semi-automatic handgun at Officer A, while still in midair. Officer B recalled that Subject 1 held the handgun in his right hand. Officer B stated that he and Officer A gave Subject 1 verbal commands to drop his handgun, but Subject 1 did not comply. Officer A then discharged his firearm at Subject 1 several times. According to Officer B, Officer A was positioned in front of the police vehicle near the passenger side when he discharged his firearm at Subject 1. Subject 1 then ran in front of the police vehicle and pointed his handgun at Officer B as he sat in driver's seat.⁹ Subject 1 continued to point his weapon as he came around toward the driver's side of the police vehicle.

Subject 1 ran to a sidewalk adjacent to the concrete slab and started to run westbound toward the rear of XXXX S. Talman. As Subject 1 started to run westbound, he turned and pointed his handgun a second time at Officer B. Officer B, while still seated in the driver's seat of the police vehicle, discharged his firearm¹⁰ at Subject 1 several times. According to Officer B, he discharged his firearm because he was in fear of his life and the life of Officer A.

Subject 1 fell to the ground and Officer A approached Officer B to check on him. The two officers then ran to the location where Subject 1 had fallen, but realized that he was no longer there. Officer B ran southbound in the alley to see if Subject 1 had escaped in that direction and switched his radio back to the "zone" to announce that shots had been fired by the police. Seconds later, Officer B heard Officer C yell that Subject 1 was running. Officer B did not see Subject 1, but ran north in the alley as other assisting units arrived in the area. Subject 1 was eventually placed in custody and Officer B later learned that a handgun and narcotics had been recovered on the scene. (Att. 30, 38)

C. Witness Officers' Interviews

In a statement with IPRA on 07 April 2015, **Officer C #XXXXXX**, stated that, as he and his two partners, Officer A and Officer B, drove past the location of incident, he observed two black male subjects and two black female subjects in the south gangway. Officer C stated that he knew that the Gangster Disciplines had recently been involved in a gang shooting and narcotic trafficking in the area of their patrol. Officer C informed his partners that he believed that a narcotics transaction was taking place. Officer C explained that he observed some type activity and believed it was narcotic related. After observing this activity, Officer C told Officers B and A to let him out and for them to go to the rear of the building, in case the offenders ran in that direction. As he entered the

⁹ Officer B stated at this time he was approximately four to ten feet away from Subject 1.

¹⁰ Officer B stated the last shot that he discharged broke the driver side window of the unmarked police vehicle, which was about one third of the way closed.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

gangway, Officer C approached the group and announced¹¹ “police.” Subject 1 pushed the two female subjects towards him and pointed his handgun¹² at Officer C.

Officer C then heard the handgun “click,” but did not observe a muzzle flash. At that time, Officer C unholstered his firearm, but he did not fire because the two black female subjects were between him and Subject 1 and another black male subject was standing behind Subject 1. Officer C then repeated “police” and ordered Subject 1 to “drop the gun.” Subject 1 turned around and ran west towards the backyard. Officer C pursued Subject 1, passing the two black female subjects in the gangway.

When Officer C reached the backyard, he was able to grab a hold of Subject 1, but the other black male subject from the gangway grabbed Officer C by the collar of his jacket and attempted to pull him down. Subject 1 broke away from Officer C’s grasp and continued to run. Officer C placed his firearm in its holster and escaped the hold of the male subject who had grabbed him by his collar.

Officer C yelled out to his partners that Subject 1 was coming towards them and that he had a gun. Officer C then unholstered his firearm again and pursued Subject 1 to the north walkway in the backyard, which was adjacent to a garage. Subject 1 jumped on top of a cement planter in the backyard which was by a fence, put his foot on the fence, and jumped into the alley. Officer C observed Subject 1 jump into the alley and point a handgun southward in the alley but then lost sight of Subject 1 due to the garage. Officer C heard a gunshot¹³ and Officer A and Officer B yell “stop” and “drop the gun.” Officer C observed Officer A standing in the alley as he discharged his firearm while Officer B was seated in the police vehicle on the driver side.

Subject 1 continued running southwest and entered another gangway at a residence¹⁴ west of the alley. Officer C lost sight of Subject 1 because a six foot wooden fence on the property to where Subject 1 fled to was blocking his view. Officer C ran to the corner of 62nd Street and Talman Avenue where he called out over the radio “shots fired by the police.” Officer C observed two Hispanic males, now known as Civilian 1 and Civilian 2, standing nearby. Officer C gestured to them with his hands in the air and one of the men pointed at the gangway of XXXX S. Talman Avenue. Officer C entered the gangway and observed Subject 1 attempting to hide under some garbage bags in a stairwell that led to the basement. Officer C ordered Subject 1 to put his hands up and stand up. Subject 1 put his hands up, but could not stand up, so Officer C and other officers pulled him out. Officer C observed Subject 1 was bleeding from the buttocks and leg areas.

Officer C then searched Subject 1 to check if he was still armed. Subject 1 was subsequently handcuffed. Officer C stated that other officers found Subject 1’s handgun lying in the grass just north of the gangway with the wooden fence. Officer C later

¹¹ Officer C stated he was approximately ten feet away at that point.

¹² Officer C described the handgun as a small, dark-colored semi-automatic.

¹³ Officer C stated when he heard the gunshot and assumed that Subject 1 had shot at his partners in the alley.

¹⁴ The exact location is XXXX S. Talman Avenue.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

learned that crack cocaine had also been recovered during the incident. Officer C did not discharge his firearm during the incident. (Att. 37)

II. Department Reports

The **IPRA Preliminary Report** and the **Major Incident Notification (MIN) Report** provided an account of the incident similar to the introduction of this report. (Att. 4,59)

IPRA investigators conducted a **Canvass** in the vicinity of XXXX S. Talman Avenue on 06 April 2015 and 16 April 2015. One potential witness was identified, Civilian 3. When encountered on 06 April 2015, Civilian 3 stated that she was Subject 1's wife and that she had observed some of the incident, but she did not reveal what portion of the incident she observed. IPRA attempted to schedule an interview with Civilian 3 via telephone calls and certified mail on several occasions, but Civilian 3 did not commit to providing an interview. Therefore, it is unknown if Civilian 3 actually witnessed the shooting incident. (Att. 25,52,68,73)

A **Tactical Response Report (TRR)** completed by Officer A documented Subject 1 did not follow direction, fled, was an imminent threat of battery, and used force likely to cause death or great bodily harm with a weapon. Officer A responded with member's presence, verbal commands, and the use of his Glock model 30, which he discharged eleven (11) times. (Att. 10)

A **TRR** completed by Officer B documented Subject 1 did not follow direction, fled, was an imminent threat of battery, and used force likely to cause death or great bodily harm with a weapon. Officer B responded with member's presence, verbal commands, and the use of his SIG model P229, which he discharged four (4) times. (Att. 12)

A **TRR** completed by Officer C documented that as Officer C attempted to place an assailant, Subject 1,¹⁵ into custody an unknown subject pulled him to the ground by his jacket hood in an attempt to defeat/prevent the arrest of Subject 1. Officer C responded with member's presence. (Att. 14)

The **Officers Battery Report (OBR)** completed by Officer A documented he was not injured. The report also documented Subject 1 threatened Officer A by pointing a semi-automatic weapon at him. (Att. 11)

The **OBR** completed by Officer B documented he was not injured. The report also documented Subject 1 threatened Officer B by pointing a semi-automatic weapon at him. (Att. 13)

¹⁵ Officer C did not complete a TRR in direct regards to Subject 1, as he never exercised any force against Subject 1, nor did he have physical contact with him.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

The **OBR** completed by Officer C documented he was not injured. The report also documented that an unknown subject threatened Officer C by pulling him to the ground.¹⁶ (Att. 15)

The **Arrest Report** for Subject 1 documented he was arrested 04 April 2015, at 1620 hours, at XXXX S. Talman Avenue, and charged with attempted murder, unlawful use of a weapon by a felon, and two counts of aggravated assault against a peace officer with a weapon. The arresting officers were Officer C and Officer A. It is reported Subject 1 was placed into custody after he pointed a black semi-automatic handgun at Officer C and pulled the trigger, though the handgun did not discharge. Subject 1 then fled and pointed the handgun at Officer A and Officer B. Eventually, Subject 1 was placed into custody and the black semi-automatic handgun, a Keltech model PF9, Serial #XXXX, was recovered. The weapon was discovered to be loaded with seven live rounds. In addition, one plastic bag containing seven (7) plastic packets with a rock substance, suspected to be crack cocaine, was also recovered. (Att. #7)

An **Original Case Incident Report**, RD #HY-210364, completed by Officer D, #XXXXX, documented officers responded to shots fired at the location of incident. (Att. 9)

The **Detectives Supplementary Report** documented that CPD Detective A, #XXXXX, and Detective B, #XXXXXX, spoke to Subject 1 while at Mt. Sinai Hospital. After Detective A informed Subject 1 of his Miranda warnings, Subject 1 stated he understood his rights, voluntarily waived his right to counsel, and agreed to be interviewed by detectives. Subject 1 stated he resided at XXXX S. Rockwell Street on the second floor. Subject 1 stated that he had walked downstairs and saw an unknown black female subject by his uncle's basement window. He walked up to the female subject and as the female subject stood up he heard someone yell out, "Freeze." Subject 1 ran after hearing the word "freeze" and heard gunshots as he ran. According to Subject 1, he did not observe who shot him and he did not have a gun. Subject 1 then hid in the basement of a building.

Detective A and Detective B then confronted Subject 1 with the inconsistencies in his statement. Subject 1 then stated that when he exited the back of his residence he had in his possession a 9mm semi-automatic handgun loaded with 7-8 live rounds. Subject 1 recalled the gun was in his waistband on his right side. After Subject 1 exited his residence, he noticed a black female subject he did not recognize bent over looking in his uncle's basement window, which was the south gangway of the residence. Subject 1 walked up to the female subject and asked her what she was doing. As he spoke to the female subject, a detective, now known as Officer C, approached him and stated, "Freeze." Subject 1 stated he knew the detective was a policeman. Subject 1 turned and ran from Officer C because he had a gun on him. Officer C chased Subject 1 west through a backyard towards the alley of Rockwell Street. While running, Subject 1 heard Officer C yelling, "He's going through the back," or "He is running through the back."

¹⁶ Officer C did not complete an OBR in regards to Subject 1.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Subject 1 told the detectives that when he got to the end of his yard, he jumped on the cement planter so he could get over the fence to the alley. At that point, Subject 1 started to pull his gun out of his waistband, so he could throw the gun away. Subject 1 stated he wanted to get rid of the gun because he was a convicted felon and did not want to get caught with it. As Subject 1 was going over the fence, into the alley, he observed an officer on foot right behind his house. Subject 1 landed in the alley and observed a police vehicle in the alley. Subject 1 still had his gun in his right hand. The police yelled, "gun," as Subject 1 crossed in front of the police vehicle. The officer on foot ran southwest across the alley and into the backyard of a house on Talman Avenue. Subject 1 ran into a yard approximately four to six feet west of the alley and then threw the gun so the police would not catch him with it.¹⁷

Subject 1 told the detectives that after throwing the gun, he jumped over a fence and ran west and then north on Talman Avenue to the next gangway, then east in a gangway, north in a backyard, and then he jumped over another fence. Subject 1 stated he was going to run back west, but he saw an officer and turned around. Subject 1 ran east down a set of stairs where he eventually was apprehended. After Subject 1 was arrested, the police called for an ambulance and he was transported to the hospital.

Subject 1 volunteered to memorialize his account of this incident in a seven page handwritten statement, on which he signed his name to each page. Subject 1 also signed a picture depicting the firearm he was in possession of.¹⁸ (Att. 63)

The Detective Supplementary Report also documents that detectives spoke with Civilian 1. Civilian 1 stated he was in front of his residence working on a car when he saw police officers chasing two black male subjects. One of the black male subjects entered a gangway and the other black male subject entered another gangway followed by an officer. Detectives also spoke to Civilian 2. Civilian 2 stated he was in front of his residence working on a car with his brother, Civilian 1, when he observed a black male subject being chased by a police officer. The black male subject fled into a gangway and Civilian 2 motioned to an officer that the male subject he was chasing ran into a gangway. The officer ran into the gangway and a short time later Civilian 2 heard a crash. (Att. 63)

A **Breathalyzer Test** for Officer A taken on 04 April 2015, at 2102 hours, revealed his BAC was .000. Officer A also submitted to a drug test on the same date, at 2045 hours, which revealed negative results. A breathalyzer test for Officer B taken on 04 April 2015, at 2025 hours, revealed his BAC was .000. Officer B also submitted to a drug test on the same date, at 2030 hours, which revealed negative results. (Att. 56)

III. Medical Reports

¹⁷ In his written statement to the Assistant State's Attorney, Subject 1 neither admits nor denies pointing his gun at officers during the incident.

¹⁸ Subject 1's handwritten statement can be reference in Att. 80, pages 125-135

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

The **Chicago Fire Department Ambulance Report** documents that paramedics found Subject 1 in a sitting position. Subject 1 had gunshot wounds to both his left and right femur. Subject 1 was awake, alert, and able to communicate his information and medical history. Paramedics further noted an entrance and exit wound on both of Subject 1's femurs. Subject 1 was transported to Mt. Sinai Hospital. (Att. 65)

Medical Records from Mt. Sinai Hospital document that on 04 April 2014 Subject 1 received treatment for multiple gunshot wounds, two (2) gunshot wounds to his right medial and lateral lower extremity and two (2) gunshot wounds to his left medial and lateral lower extremity. Subject 1 was diagnosed with gunshot wounds of his lower extremities.¹⁹ (Att. 55)

IV. Office of Emergency Management and Communications (OEMC)

OEMEC transmissions documented that on 04 April 2015, at approximately 1618 hours, a female caller called "911" and reported hearing six shots fired in the alley of XXXX S. Talman Avenue. At 1624 hours, the same female caller called "911" again and reported hearing someone run through her gangway after shots had been fired and that her fence was on the ground.

At XXXX hours, an unidentified caller reported hearing ten gunshots in the area of XXXX W. 62nd Street/XXXX S. Maplewood Avenue.

At 1619 hours, another unidentified caller reported hearing shots fired from the back of XXXX S. Talman Avenue.

At approximately 1617 hours, Beat XXXXX, Officer C, radioed "emergency" and "XXXX got shots fired." The dispatcher asked Officer C, "XXXX where?" and one of the officers replied, "Shots fired by the police... he's a male black squad... he's running from XXXX Talman." Beat XXXXX, Officer B, radioed, "We are about XXXX W. 62nd...shots fired by the police. He may be headed...he's a big guy...dark clothing...we about XXXX Rockwell in the alley." One of the officers then radioed that they "needed cars and the subject was armed running through the gangway." A few seconds later, one of the officers can be heard stating, "Put your hands up." The same officer radioed that Subject 1 was in custody at XXXX.²⁰

IPRA contacted the 911 callers who stated they did not witness the incident; they only heard gunshots fired. (Att. 49)

V. Forensic Evidence

Evidence Technician Photographs depict the scene, recovered evidence, the weapon reportedly belonging to Subject 1, Subject 1's clothing, and Officer C, Officer A, and Officer B. (Att. 39 – 47)

¹⁹ Terminology for injury to leg.

²⁰ Subject 1's Arrest Report documented he was arrested at XXXX S. Talman Avenue.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

The **Crime Scene Processing Report** documented Subject 1's weapon, a Keltec model PF-9, 9mm semi-automatic pistol, 3" barrel length, blue steel finish, Inventory #XXXXXXXXXX, was recovered at XXXX S. Talman Avenue. The gun magazine in the Keltec had a seven (7) shot capacity and there were seven (7) R-P²¹ 9mm Luger caliber unfired cartridge cases removed from the weapon.²²

Officer A's weapon, a Glock model 30, .45 semi-automatic pistol, 3.75" barrel, blue steel finish, Inventory #XXXXXXXXXX, was inspected and recovered.

Officer B's weapon, a Sig Sauer model P229, 9MM, semi-automatic Pistol, 3.75" barrel, blue steel finish, Inventory #XXXXXXXXXX, was inspected and recovered. (Att. 19)

Illinois State Police (ISP) Forensic Science Laboratory Report, dated 08 June 2015, Lab Case #C15 – XXXXXX, document that Inventory #XXXXXXXXXX, which consisted of Subject 1's Keltec 9mm pistol, the corresponding live cartridges, and the magazine, did not reveal any latent prints suitable for comparison. (Att. 57)

ISP Forensic Science Laboratory Report, dated 13 July 2015, Lab Case #XXX – XXXXXX, documents the examination of Officer B's weapon, a Sig Sauer model P229, 9mm Parabellum caliber semi-automatic pistol, serial #XXXXXXXXXX, a gun magazine, and ten (10) Winchester 9mm Luger + P caliber unfired cartridge cases, showed that the weapon was operable as received and test fired.

The examination of Officer A's weapon, a Glock model 30, .45 Auto caliber semi-automatic pistol, serial #XXXXXXXXXX, and a gun magazine, showed that the weapon was operable as received and test fired.

The examination of the weapon recovered from Subject 1's flight path, a Keltec model PF-9, 9mm Luger caliber semi-automatic pistol, serial #XXXXX, the corresponding magazine, and seven R-P 9mm Luger caliber unfired cartridge cases, showed that the weapon was operable as received and test fired.²³

Two (2) Winchester 9mm Luger +P caliber fired cartridge cases, labeled #3B and #5A, were examined and could not be identified or eliminated as having been fired from Officer B's weapon or Subject 1's weapon. (Att. 58)

ISP Forensic Science Laboratory Report, dated 27 August 2015, documented a GSR kit administered to both of Subject 1's hands was examined by scanning electron microscopy for the presence of primer gunshot residue (PGSR) particles based on elemental composition and morphology. The examination concluded that Subject 1 may

²¹ Remington-Peters

²² One cartridge case was removed from the chamber of the weapon and six cartridge cases were removed from the magazine.

²³ There is no evidence that confirms whether or not Subject 1's firearm suffered a misfire or malfunction as described by Officer C.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

have not discharged a firearm with either hand. If Subject 1 did discharge a firearm, then the particles were removed by activity, were not deposited, or were not detected by the procedure. (Att. 72)

ISP Forensic Science Laboratory Report, dated 28 July 2016, documented a buccal standard from Subject 1 was examined and compared with biological swabs taken from the rear stairs leading to the basement of XXXX S. Talman Avenue., from a light blue garbage can in the rear yard of XXXX S. Talman, and a fence on the south gangway of XXXX S. Talman. Biological swabs were also taken from the recovered handgun reportedly belonging to Subject 1. A human male DNA profile was identified from the biological swabs taken from the stairs, garbage can, and fence that matched the DNA profile of Subject 1. A mixture of DNA profiles, of at least two people, was identified on biological swabs taken from the gun reportedly belonging to Subject 1. The mixture was potentially incomplete and not suitable for comparison. (Att. 76)

Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives National Tracing Center Report, Trace # XXXXXXXXXXXXXXXX, document that the Keltec model PF-9, reportedly belonging to Subject 1, was purchased on 02 January 2007 by Civilian 4 from Chuck's Gun Shop, located at XXXXX S. Indiana Avenue, in Riverdale, Illinois.²⁴ (Att. 77)

VI. Video Evidence

A search for **Police Observation Devices (POD)** in the vicinity of the location of incident was met with negative results because there were no PODs in the area. (Att. 18)

VII. Court Records

Records pertaining to Subject 1's **Criminal Case** document that on December 28, 2017, he pled guilty to felon in possession of a firearm and aggravated assault to a peace officer. (Att. 79)

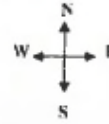
A **Transcript of Criminal Proceedings** of Subject 1's guilty plea to Unlawful Use of a Weapon by a Felon and four counts of Aggravated Assault revealed Subject 1's attorney stipulated that the officers observed Subject 1 with a firearm, that he pointed the firearm in the direction of the officers, and that a firearm was recovered in a nearby yard that matched the description of the one Subject 1 possessed. Subject 1's attorney also stipulated that Subject 1 gave a handwritten statement in which he admitted to possessing a firearm and being a convicted felon. However, there was no stipulation that Subject 1 pointed the firearm at the officers. (Att.81)

²⁴ The CPD Firearms Unit does not conduct follow up investigations on weapons recovered more than two years from their purchase date, Att. 82.

APPENDIX A

INDEPENDENT POLICE REVIEW AUTHORITY

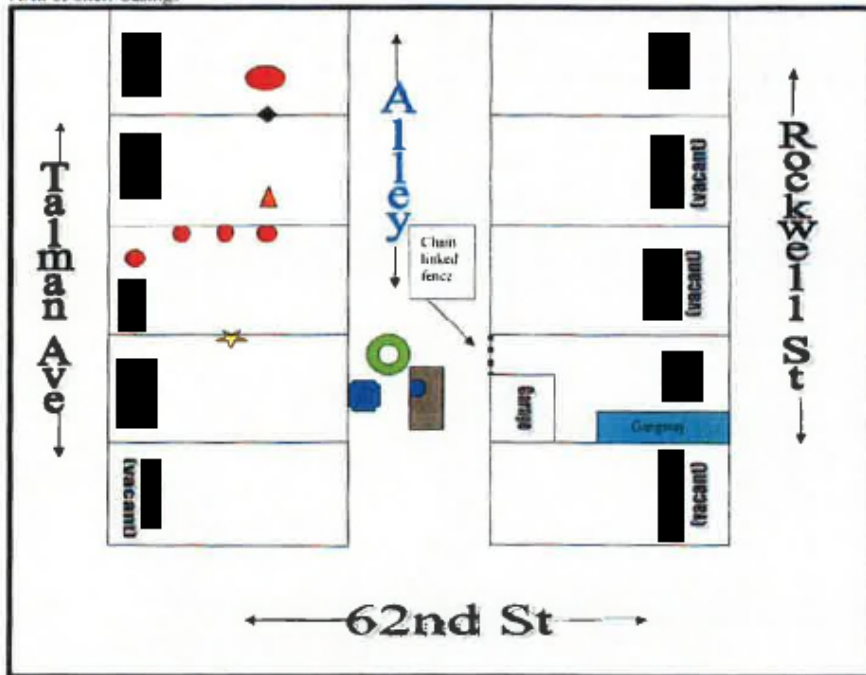
LOG # [REDACTED] 06 April 2015
U# [REDACTED]



NOT TO SCALE

Location of Incident [REDACTED] S. Rockwell Street, in the alley, on 04 April 2015, at 1619 hours

Area of Shell Casings



Log # [REDACTED] U# [REDACTED]
AR # 5

INDEPENDENT POLICE REVIEW AUTHORITY

LOG # [REDACTED] / U# [REDACTED] 06 April 2015

[REDACTED] Gray unmarked Ford Interceptor police vehicle, license plate [REDACTED] car number, [REDACTED]

[REDACTED] Recovered weapon

[REDACTED] Areas of what appeared to be dried blood

[REDACTED] Area of shell casings

[REDACTED] Area of shattered glass

[REDACTED] Black hat

[REDACTED] Suspected narcotics



Log # [REDACTED] U# [REDACTED]
Att. # 5

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

CONCLUSION

Legal Standard

The applicable Chicago Police Department order is General Order 03-02-03, III, which 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 deadly weapon or;
 - c. Otherwise indicates that he or she 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 - deadly or not - in the course of an arrest, investigatory stop, or other “seizure” are properly analyzed under the Fourth Amendment’s objective reasonableness standard. The question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). Moreover, the 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*, 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, 683 (7th Cir. 2002) (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir.1988) (en banc) and omitting emphasis).

Analysis

In this instance, there is a preponderance of evidence that Officer A and Officer B that deadly force was reasonably necessary to prevent Subject 1 from causing death or bodily harm to themselves or others. The use of deadly force is solely analyzed under whether or not it was reasonable to believe that the use of deadly force was necessary to prevent death or great bodily harm to either officer or to another person because Subject 1 was not a fleeing felon.

First, it is uncontroverted that Subject 1 possessed a firearm and that he held the firearm in his hand during the incident. Second, Officers B and A stated that they were in fear for their lives and their partners' lives when they saw Subject 1 point a gun at them as he fled Officer C. In this instance, the involved officers' account of the event is corroborated by Subject 1's written statement given to the Cook County Assistant State's Attorney.

1. It is undisputed that Subject 1 possessed a firearm as he fled in the direction of the officers and that he held the firearm in his hand as he jumped the fence while traveling in the direction of the officers.

Although initially he denied possession a firearm, ultimately, Subject 1 admitted to detectives that he had a 9mm automatic pistol that was loaded with seven to eight live rounds in the waist band on his right side he walked outside of his home (XXXX S. Rockwell). Subject 1 also admitted that, as he jumped over the fence and into the alley where he encountered the officers, he pulled the gun out of his waistband in order to throw the gun away. Subject 1 reiterated that he did not want to be found in possession of a firearm because he was a convicted felon and did not want to get caught with it. Subject 1 acknowledged that, when he jumped into the alley, he had the gun in his right hand and he could see a police car in the alley and an officer on foot. At that point, he heard officers yell "gun." According to Subject 1, it was then that he ran across the alley and threw the gun. After taking Subject 1's statement, the detectives showed Subject 1 a photograph of the gun recovered from the scene. Subject 1 confirmed that the handgun recovered was the gun he had in his right hand. Subject 1 signed the photograph in acknowledgement.

Subject 1 admitted to having a gun during the incident and that he fled as soon as Officer C approached the group. Subject 1's explanation for running was that he was a convicted felon and he did not want to be caught with a firearm. Subject 1 explained that as soon as Officer C approached and announced, he ran westbound through his backyard towards the "alley of Rockwell." Subject 1 stated that when he got to the alley, he jumped onto a "cement stoop" so he could jump over the chain link fence into the alley. When he landed in the alley, Subject 1 confirmed that he had the handgun in his right hand because he pulled it out of his waistband. When Subject 1 landed in the alley, he stated that he saw an officer on foot and an officer in a squad car. Subject 1 confirmed that he ran in

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

front of the squad car and passed the officer on foot and continued into the backyard of the home on the west side of the alley.²⁵

Based on Officer C's statement, there is some discrepancy regarding when Subject 1 had the handgun in his right hand. Officer C recounted that Subject 1 pulled the firearm and attempted to fire the weapon as he was approaching Subject 1 in the gangway. Officer C also confirmed that as Subject 1 jumped into the alley, he still had the gun in his hand. However, Subject 1 stated that he had the firearm in his waistband and pulled it out as he jumped the fence. Subject 1 does not confirm or deny in his written statement whether he had the handgun out and in his hand when Officer C approached him in the gangway. Officer C did not discharge his weapon in this instance. While this discrepancy exists, it does not change Subject 1's statement that he had the firearm in his right hand as he jumped into the alley. This is the exact moment in which both Officer A and Officer B observed Subject 1 with the firearm. Officer A and Officer B did not state that Subject 1 pulled the handgun out as he jumped the fence; only that the handgun was in his hand when he came over the fence. Based on Subject 1's statement, the handgun recovered from the scene, and Officer A, Officer C and Officer B's statement that they saw a gun in Subject 1's hand; it is more likely than not that Subject 1 had a firearm in his hand during the incident.

2. Subject 1's written statement corroborates the involved officers' account regarding the incident

The flight path described by Subject 1 corroborates Officer C's account that he ran through his gangway, into his backyard, and hopped the fence by jumping onto a cement block. In addition, Officer A stated that he saw Subject 1 use the cement block to make it over the fence. Subject 1's statement that he had the handgun in his hand as he jumped over the fence corroborates Officer C's account that when the officer observed Subject 1 jump into the alley, he had the handgun in his hand. Officer B stated that when Subject 1 jumped over the fence, he had the gun in his right hand. Finally, Officer A stated that, as Subject 1 was jumping over the fence, he had the firearm clearly visible in his hand. Subject 1 acknowledged that, when he jumped the fence into the alley, he could hear an officer calling out "gun" and that he was "running through the back." This corroborates Officers B and A's account that they heard Officer C yelling that the subject had a gun and that he was running through the back before they encountered Subject 1 in the alley.

3. Officer A reasonably believed that Subject 1 was a threat to himself and Officer B when he observed Subject 1: (1) attempting to flee with a firearm in hand, (2) point the firearm in his direction, and (3) point the firearm in Officer B's direction

When Subject 1 jumped over the chain linked fence, Officer A was right next to the fence. Officer A clarified that he did not engage Subject 1 immediately but instead

²⁵ Subject 1 told detectives that he did not realize he was shot until he "jumped the last gate" and attempted to hide in the outside stairwell that led to a basement. This is the location where Subject 1 was arrested.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

gave verbal commands. Officer A stated that he did not fire his weapon until Subject 1 ignored commands to drop the weapon and continued to point the weapon at him. Officer A stated that it was mere seconds between when Subject 1 pointed the gun and he discharged his weapon. Officer A stated that as he fired his weapon, Subject 1 continued to run with the handgun in his hand. Officer A stated that he repeated commands to drop the gun. As Subject 1 continued to run, he had crossed the front of Officer B's vehicle and continued to point the gun. Officer A stated that not only was Subject 1 pointing the gun, but waving the gun as he ran. Officer A did not recall if Subject 1 lowered the gun at any point during the incident.

Officer A stated that that he engaged Subject 1 as soon as he pointed the gun at him and ignored verbal commands to drop the weapon. Officer A stated he believed Officer B began to fire as Subject 1 pointed the handgun at him but did not hear any of the gunshots. When asked if he experienced "auditory exclusion" he stated that he called it "tunnel vision." Officer A stated that he was in fear of his life before he fired his weapon and was in fear for his partner's life when Subject 1 pointed the gun at Officer B in the squad car. However, Officer A could not recall if he continued to fire his weapon as Subject 1 ran in front of the squad car. Officer A was unaware if he had shot Subject 1 but as he chased him, he watched Subject 1 fall into the backyard of the house on the west side of the alley. At that point, Officer A determined that threat was minimized and went to check on Officer B. At this point, Subject 1 got up and continued to run until he was apprehended the rear of XXXX S. Talman. In this instance, it would be reasonable for Officer A to believe that Subject 1 was a threat because he had a firearm in his right hand and pointed it at him and Officer B as he attempted to flee Officer C.

4. Officer B reasonably believed that Subject 1 was a threat to himself and Officer A when he observed Subject 1: (1) attempting to flee with a firearm in his hand, (2) point the firearm in Officer A's direction, and (3) point the firearm in his direction.

Officer B was travelling northbound through the alley behind XXXX S. Rockwell when he heard Officer C yelling "stop police, he's gotta gun." Officer B also heard Officer C yelling "he's comin back."²⁶ At this point, he had let Officer A out of the squad car; Officer A was positioned to the right (passenger side) and in front of the vehicle. After hearing Officer C, Officer B saw Subject 1 "come through the air over a chain link fence." At that point, Officer B stated he could clearly see that that Subject 1 had a handgun and that he pointed it directly at Officer A. He observed Officer A discharge his weapon as Subject 1 pointed the weapon at Officer A. Officer B described Officer A as still firing as Subject 1 came across the front of his vehicle. Subject 1 continued to run southwest and directly in front of Officer B. Officer B stated that the Subject 1 "runs in front of my vehicle and points his weapon directly at me." At this point, Subject 1 was "four to ten feet" from Officer B. Officer B explained that when Subject 1 pointed the gun at him, he was in fear of his life and Officer A's; Officer B then discharged his weapon four times from inside the squad car. Officer B believed that his decision to use deadly force was a "split second" decision. In this instance, it would be reasonable for

²⁶ Officer B stated that the driver window to the squad car was a third of the way down.

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Officer B to believe that Subject 1 was a threat because he had a firearm in his right hand and pointed it at him and Officer A as he attempted to flee Officer C.

5. A reasonable officer under these circumstances would perceive Subject 1's actions as a significant threat and therefore Officer A and Officer B's belief that Subject 1 presented a threat of death or great bodily harm was objectively reasonable

Even though Subject 1 stated that he never intended to use the firearm, and only intended to get rid of it, Subject 1 did acknowledge that it was in his right hand when he jumped into the alley came across Officer A and Officer B. Regardless of Subject 1's intentions, he had a firearm in this hand and did not obey orders to drop the weapon. In situations such as this, courts have accepted the action-reaction principle on facts justifying the officer's anticipatory use of his weapon to protect himself. A potential threat can be sufficient; it need not materialize to the point of harm. *See Ontiveros v. City of Rosenberg*, 564 F.3d 379, 382–385 and fn. 2 (5th Cir.2009) (“[U]se of deadly force is presumptively reasonable” when the officer could reasonably have interpreted the suspect's movement as “reaching for a weapon”); *Anderson v. Russell*, 247 F.3d 125, 132 (4th Cir.2001) (officer “does not have to wait until a gun is pointed” before acting); *Montoute v. Carr*, 114 F.3d 181, 185 (11th Cir.1997) (same); *McLenagan v. C. Karnes*, 27 F.3d 1002, 1007 (4th Cir.1994) (officer need not “actually detect the presence of an object in a suspect's hands before firing on him”).

In addition, movements alone by a suspect are not enough to justify deadly force if, in light of the circumstances, those movements would not cause a reasonable officer to believe that the suspect was a threat. Therefore, a simple statement by an officer that he fears for his safety or the safety of others is not enough; there must be objective factors to justify such a concern." *See, Haugen v. Brosseau*, 339 F.3d 857 (9th Cir. 2003); *Deorle v. Rutherford*, 272 F.3d 1272, 1281 (9th Cir. 2001). The relevant circumstances confronted by the involved officers support that Officer A and Officer B's actions were objectively reasonable. First, before encountering Subject 1 in the alley, both officers heard Officer C loudly announce that Subject 1 had a gun and was coming back in their direction. Then, the officers observed a firearm in Subject 1's right hand. Not only did Subject 1 have the firearm in his hand, he disobeyed commands to drop the weapon and pointed the firearm directly at both officers. The encounter was tense, uncertain, and rapidly evolving. Officer A and Officer B's belief was objectively reasonable. Subject 1 posed an active and imminent threat toward the officers, as he was armed and pointed his weapon at the officers.

General Order 03-02-03(III), specifically states that a sworn member may use deadly force in order to “to prevent death or great bodily harm to the sworn member or another person.” Based on the totality of the circumstances, IPRA finds that an officer with similar training and experience would reasonably believe that Subject 1 posed an immediate threat their safety. IPRA finds that the use of deadly force by Officer A and Officer B was objectively reasonable and within policy as outlined by the Use of Force

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

Model; the Illinois State statute; and the Chicago Police Department's General Order 03-02-03, III.