

TO: Deputy Chief Administrator
Civilian Office of Police Accountability

FROM: Major Case Specialist, #XXX
Major Case Specialist

DATE: October 02, 2017

REFERENCE: Log# 1080449/U#16-07
RD# XX-XXXXXX (Armed Robbery)
RD# XX-XXXXXX(Aggravated Assault to a Police Officer - Handgun)
RD# XX-XXXXXX (Death Investigation)

INCIDENT

DATE/TIME: May 09, 2016 at approximately 11:00 a.m.

LOCATION: XXXX S. Karlov Avenue – Residential Backyard

INITIAL

INCIDENT: Bank robbery of Bank A

INVOLVED

OFFICER #1: Officer A; Chicago Police Officer; Star #XXXXX; Unit XXX; White Male; Employee #XXXXX; DOB: XX Sep XX; DOA: 17 May 093; On-Duty; Plainclothes; Assigned to Beat XXX.

WEAPON: Glock model 21; .45 caliber semi-automatic pistol; Serial #XXXXXX; City Registration #XXXXXX; FOID #XXXXXXXXXXXX; (9) live rounds recovered from firearm; WIN .45 caliber ammunition; Weapon capacity of 13 + 1 rounds;¹ Fired five (5) times.

INJURIES: None reported

WITNESS

OFFICER #1: Officer B; Chicago Police Officer; Star #XXXX; Unit XXX; White Male; Employee #XXXXX; DOB: XX Feb XX; DOA: 02 May 88; On-Duty; Plainclothes; Assigned to Beat XXXX; .

SUBJECT: Subject 1; White Male; DOB: XX June XXXXX; Address: XXXX W 63rd Pl, Chicago, IL.

WEAPON: Pietro Beretta model 1934; .380 caliber semi-automatic pistol; 3½ barrel length; Serial #XXXXXX; (7) live rounds recovered from the firearm: .380 R-P ammunition; Weapon capacity of 6 + 1 rounds;²

¹ The gun magazine has a capacity of thirteen (13) rounds plus one in the chamber.

² The gun magazine has a capacity of six (6) rounds plus one in the chamber.

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INJURIES: Gunshot wound entered right chest, through-and-through, exited left back, gunshot wound entered left abdomen, through-and-through, exited left lower flank, gunshot wound entered right back, through-and-through, exited mid left back, and gunshot wound to right upper chest, lodged; Fatal.

SUMMARY OF INCIDENT

On May 09, 2016, at approximately 10:45 a.m., Subject 1 entered a branch of Bank A, located at XXXX S. Archer Avenue, and demanded that the bank employees put money into his bag. One of the bank tellers gave Subject 1 several smaller bills of cash and Subject 1 ran out of the bank with the cash. Several officers responded to the bank robbery alarm in the area and gave chase to Subject 1 on foot. Officer A and Officer B were both in unmarked police vehicles and responded to the scene separately. Officers A and B, and additional officers, began searching nearby alleys and yards for Subject 1. While clearing an adjacent yard, Officer A observed Subject 1 lying on the ground at XXXX N. Karlov Avenue with a pistol pointed at Officer A. Officer A immediately discharged his firearm five times, striking Subject 1 four times.

Subject 1 was declared dead on arrival at the hospital.

INVESTIGATION

IPRA obtained relevant video, forensic, and documentary evidence associated with this incident. Additionally, IPRA interviewed civilians who witnessed various aspects of this incident as well as the events that took place prior to this encounter. IPRA interviewed the following civilian witnesses: Civilian 1, Civilian 2, Civilian 3, Civilian 4, Civilian 5, Civilian 6, Civilian 7, Civilian 8, Civilian 9, and Civilian 10. IPRA also interviewed several involved police officers which included: Officer B, Officer C, Officer D, Officer E, Officer F, Officer G, Officer H, Officer I, Officer J, Officer K, and Involved Officer A.

The following are summaries of the relevant evidence obtained in this investigation:

Civilian Interviews

In interviews with IPRA on May 16, 2016³, **Witnesses Civilian 6, Civilian 7, Civilian 8, Civilian 9, and Civilian 10** stated that they were all employees working at Bank A, located at XXXX S. Archer Avenue, on May 09, 2016. At approximately 10:45 a.m., a man, now identified as Subject 1, ran into the bank wearing a bandana over his face. Subject 1 was completely covered by clothing (hoodie and gloves). He immediately ran up to one of the bank tellers and began yelling at the teller to put the money in his bag. At first, the teller handed Subject 1 small bills and the man then yelled that he wanted “hundreds.” The teller gave Subject 1 twenties and said that she did not have any hundreds. Subject 1 collected the money in his bag and then ran back out of the door that he had entered. One of the witnesses initiated the bank alarm to alert the police that the bank had been robbed. Subject 1 was in the bank for less than one minute. None of these witnesses saw Subject 1 brandishing a gun, but at one point Subject 1 did have something poking from his pocket as he was indicating he had a gun. Three of the witnesses thought it may have just been Subject 1’s finger poking into his pocket. After Subject 1 left the bank, two other bank employees, identified as Civilian 4 and Civilian 5, chased after Subject 1 on foot. (Atts.68, 172, 176, 177, 178)

³ All witnesses listed were interviewed separately. Where their accounts were consistent, the testimony is described in the aggregate herein.

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In **interviews with IPRA** on May 16, 2016, **Witnesses Civilian 4 and Civilian 5** stated that they were both employees working at Bank A, located at XXXX S. Archer Avenue, on May 09, 2016. Both witnesses stated that Subject 1 did have a weapon while robbing the bank, but they did not see the weapon while inside the bank. After Subject 1 exited the bank, Civilian 4 and Civilian 5 began chasing Subject 1 to see where he was running and to get a better look at what he was wearing. The witnesses also saw other individuals chasing after Subject 1 on foot and assumed the others were chasing Subject 1 because “they figured something was wrong.” There was also a vehicle in pursuit of Subject 1, which the witnesses later learned was being driven by a CPD officer. During the chase, Subject 1 stopped and pointed his gun at the officer’s vehicle, now identified as Officer B’s vehicle. At that point, Civilian 4 and Civilian 5 ended their pursuit of Subject 1. The witnesses also confirmed that Subject 1 was carrying a backpack during their chase. (Atts.182, 184)

In **interviews with IPRA** on May 16, 2016, **Witnesses Civilian 3 and Civilian 2** stated that they were both employees working at Dealership A, located at XXXX S. Pulaski Road, on May 09, 2016. Dealership A is located near Bank A. While the witnesses were driving a car to the lot from Dealership A’s other location, they witnessed Subject 1 running from two individuals, Civilian 4 and Civilian 5, who were dressed in business clothes. They also witnessed a vehicle in pursuit of Subject 1 which they later learned was being driven by a CPD officer, identified now as Officer M and Civilian 2 decided to assist with the pursuit because they assumed there had been a robbery. During the pursuit, Civilian 3 and Civilian 2 saw Subject 1 take out a gun and point it at the vehicle driven by Officer M then called the police and told them that “there was an armed man pointing a gun at a car.” The witnesses ended their pursuit at that time and then minutes later, they heard four quick gunshots. (Atts.34, 171)

In an **interview with IPRA** on May 09, 2016, **Witness Civilian 1** stated that he resided at XXXX S. Karlov Avenue, which was the residential property at which Subject 1 was shot. Civilian 1 was home during the shooting, but he did not know anyone was in his backyard until he heard three or four consecutive gunshots. Civilian 1 walked to the rear of his house and observed a man, identified now as Officer A, straddling his fence and pointing a gun down towards the ground. Civilian 1 could tell Officer A was yelling, but was unable to hear the words because of Civilian 1’s soundproof windows. After Civilian 1 exited his home, he observed a man, Subject 1, in a sitting position leaning against the gate to his backyard. He also observed a gun on the ground. Civilian 1 was immediately asked by a uniformed officer for the keys to his gate. Civilian 1 retrieved the keys from his home and unlocked the gate. Civilian 1 was then told by the same officer to return to the inside of his home. Civilian 1 did not know Subject 1 and did not possess any additional relevant information. (Att.27)

Police Officer Interviews

In an **interview with IPRA** on May 12, 2016, **Involved Officer A, #XXXXXX**, stated that on 09 May 2016, he and Officer D were on routine patrol in an unmarked police vehicle. As the officers were driving, a call came over the radio that a bank hold alarm was going off at a nearby Bank A. The officers turned on their vehicle’s lights and sirens and began driving towards the bank. In the officers’ transit to the area, the officers heard the dispatcher state that a CPD officer had just had a gun pointed at him by a man near the Bank A. The officers drove to the area of the bank where they saw two Bank A employees, Civilian 4 and Civilian 5, and one of the Dealership A employees in an alley. The civilians showed the officers the direction that Subject 1 had just ran and also told the officers that Subject 1 had a gun and had just robbed a bank.

Officer A exited his vehicle and began searching for Subject 1 on foot, looking in backyards near the area where Subject 1 was last seen by the witnesses. During this search, Officer A was flagged down by Officer Officer B who Officer A knew from a previous assignment with the CPD. Officer B reported to Officer A that

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the suspect had just pointed a gun at Officer B. Officer B then left the alley and Officer A continued his search. Officer A engaged in this search by jumping over the fences separating the backyards in the area. Officer A had his gun drawn in one hand during the entirety of his search.

After searching several yards, Officer A arrived in the backyard next to XXXX S. Karlov Avenue. Officer A cleared the yard and prepared to attempt to clear the backyard of XXXX S. Karlov Avenue. The fence separating these two backyards is six feet tall and constructed of wood slats with no space in between the slats that would allow an individual to see into the XXXX S. Karlov Avenue yard from the adjacent yard. Thus, Officer A used a “concrete thing” near the fence and the horizontal support boards on the fence to pull himself on to the top of the fence. At this moment, Officer A’s torso was on top of the fence with one leg supporting some of his weight on the horizontal board and his other leg dangling. Officer A’s gun was at his side. Officer A stated that “he could not believe that he poked his head up above the fence like he did.”

Officer A began scanning the backyard of XXXX S. Karlov Avenue and observed Subject 1 lying on his back on the ground in the backyard with his head raised as he was lying against a backpack. Subject 1 had a gun in his hand and it was pointed directly at Officer A. Subject 1 told Officer A “do somethin” and Officer A immediately pointed his gun at Subject 1 and pulled the trigger to his recollection at least three times. Officer A stated that he kept pulling the trigger until Subject 1’s weapon was no longer pointed at Officer A. Officer A stated that he believes that Subject 1 never turned his back to Officer A while Officer A was firing his gun, and that Subject 1 was facing Officer A during the entirety of the gunshots.

Officer A stated that after he fired his weapon, Subject 1 still had the gun in his hand but his finger was not on the trigger. Officer A next saw other officers in his peripheral vision and Officer A swung his leg over the fence, straddling the fence, and continued to keep his gun pointed at Subject 1 because Subject 1 still had his gun in his hand.

Officer A began screaming that “he’s still got the gun.” Officer A then heard his Sergeant (Sergeant A) tell him to get off the fence. Officer A stated that he was not going to get off the fence because he had Subject 1 in his sight. Officer A yelled that someone needed to flip into the yard and he next observed Officer C and Officer D enter the yard. Officer C approached Subject 1 and kicked the gun out of Subject 1’s hand. Officer C signaled to Officer A that Subject 1 had been disarmed. Officer A reholstered his weapon and climbed down from the fence. Officer A next met with Sergeant A who brought him to Officer A’s vehicle and sat with him in the vehicle. (Att.73)

In an **interview with IPRA** on May 12, 2016, **Witness Officer B, #XXX**, stated that on May 09, 2016, he was in plainclothes and traveling in an unmarked police vehicle when he observed Subject 1 running while wearing a mask and carrying a backpack. Officer B also observed two men, Civilian 4 and Civilian 5, in business dress chasing Subject 1. Officer B assumed a crime had taken place and began pursuing Subject 1 in his vehicle. Officer B approached Subject 1 and showed him his police star, but Subject 1 continued running. Officer B continued his pursuit and, moments later, Subject 1 stopped running, dropped his backpack, and pulled a gun out of his pocket. Subject 1 went into a shooting stance with both hands on the gun pointing at Officer B inside of his vehicle. Subject 1 said to Officer B “shoot me now bitch.”

Officer B unholstered his weapon and pointed it at Subject 1. Officer B began to exit his vehicle but Subject 1 picked up his backpack and began to run away. Officer B sent a radio transmission on his zone radio that he has “gotta guy with a gun he just pointed it at me.” Officer B continued his pursuit and observed Subject 1 jump off a porch, located at XXXX S. Karlov Avenue, and continue running from Officer B. Subject 1 also

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removed some of his clothing while on the porch. Officer B lost sight of Subject 1 at this point, but Officer B continued searching.

While driving down an alley, Officer B saw Officer A who he knew from a previous assignment with the CPD. Officer B told Officer A that Subject 1 still had a gun and he had just pointed it at Officer B. Officer B also told Officer A that Subject 1 had to be in one of the nearby yards, and that Subject 1 had changed his clothes and described what Subject 1 was now wearing. Officer B left Officer A and continued his search for Subject 1 on foot.

As Officer B was searching for Subject 1, he heard three gunshots nearby. Officer B ran to the area where the shots were fired and he observed Officer A on top of a wooden fence with his gun drawn. Officer A screamed that "he's still got a gun in his hand." Officer B attempted to enter the backyard where Subject 1 was located, but the gate was locked. Officer B asked Officer A if Subject 1 had been shot and Officer A responded that Subject 1 had been shot. Officer B called for an ambulance over his radio. (Att.68)

In an **interview with IPRA** on May 11, 2016, **Witness Officer C, #XXXXX**, stated that on May 09, 2016, he was in uniform and on routine patrol with his partner, Officer G, in a marked SUV. As the officers were driving, a call came over the radio that a bank hold alarm was going off at a nearby Bank A. The officers turned on their vehicle's lights and sirens and began driving towards the bank. In the officers' transit to the area, the officers heard the dispatcher state that a CPD officer had just had a gun pointed at him by a man near the Bank A.

The officers travelled to the area of the Bank A and after the officers arrived, Officer C exited the vehicle and began searching for the suspect on foot. Officer C climbed a ladder of a nearby building to access the roof in order to search for subject, Subject 1, but was unable to locate him. Officer C also scanned yards in the area by peeking over fences. Sergeant A arrived in the area and issued orders for the officers to set up a perimeter.

After Officer C began to set up a perimeter, he heard three to five gunshots nearby. Officer C ran in the direction of the gunshots where he heard a male, Officer A, repeatedly yelling "put the gun down." Officer C entered the backyard of XXXX S. Karlov Avenue where he observed Officer A straddling a six foot privacy fence. Officer C also observed Sergeant A and Officer D in the yard. Officer C jumped over the fence, behind the area where Officer A was straddling the fence, and approached the area where Officer A was pointing his weapon. Officer C observed Subject 1 lying on the ground against a backpack with a gun in his right hand. Officer C used his foot to gently kick the gun from Subject 1's hand and on to the ground and then kept his weight on the gun. Officer C stated that he gently kicked the gun because the hammer was down, the gun was cocked, and Officer C did not want the gun to discharge. Officer C checked to see if Subject 1 had a pulse; he did not feel one but did observe shallow breaths coming from Subject 1.

Officer D approached Officer C and gave him the keys to the gate near Subject 1. Officer C unlocked the gate and, seconds later, the paramedics arrived and began giving medical attention to Subject 1. Officer C stayed with the weapon that had been in Subject 1's hand until the evidence technicians processed the weapon. (Att.64)

In an **interview with IPRA** on May 19, 2016, **Witness Officer D, #XXXXX**, stated that on May 09, 2016, he and Officer A were on routine patrol in an unmarked police vehicle in the minutes before the officer-involved shooting incident. As the officers were driving, a call came over the radio that a bank hold alarm was going off at a nearby Bank A. The officers turned on their vehicle's lights and sirens and began driving towards the bank. In the officers' transit to the area, the officers heard the dispatcher state that a CPD officer had just

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had a gun pointed at him near the Bank A. The officers drove to this area where they saw the two Bank A employees, Civilian 4 and Civilian 5, and one of the Dealership A employees in an alley. The civilian witnesses showed the officers the direction that Subject 1 had just ran and also told the officers that Subject 1 had just robbed a bank.

Officer D and Officer A split up and began searching for Subject 1 on foot. During Officer D's search, he heard a flash message that Subject 1 had changed clothes. Officer D met with Officer E and Officer C near the Dealership A dealership and spoke to the manager about what he had observed. The manager told the officers that they could access the roof of the dealership to get a better vantage point of the area. All three officers accessed the roof and briefly looked around but could not see anything. The officers all exited the roof and Officer D continued his search for Subject 1 on foot. Officer D searched yards and garages in the area.

During Officer D's search, he heard Officer A scream "drop the gun" at least two times, and then Officer D immediately heard approximately three gun shots. Officer D ran towards the gunshots while screaming towards Officer A to let him know he was nearby. Officer D saw Officer A straddling a privacy fence with his weapon drawn and Officer A screamed that "he's still got the gun." Officer D glanced over the fence and saw Subject 1 lying on the ground with his head on a backpack and a gun in his hand. Officer D jumped over the fence and observed Officer C run up to Subject 1 and knock the gun out of Subject 1's hand.

Officer D next knocked on the backdoor of XXXX S. Karlov Avenue and asked the resident, Civilian 1, for the key to the back gate in order to allow paramedics to have access to Subject 1. Officer D received the key and gave it to Officer C to unlock the gate. (Att.189)

In an **interview with IPRA** on May 24, 2016, **Sergeant B, #XXXX**, stated that on May 09, 2016, he was riding with Officer E and Officer L in an unmarked vehicle and civilian dress. Sergeant B was Officer A's Sergeant. While Sergeant B was inside of a business, he heard a radio transmission of a bank hold up alarm and a subsequent transmission that there was a man pointing a gun at a CPD officer. Officer E and Officer L responded to the calls and left Sergeant B at the business. Sergeant B began travelling to the area by foot and later received a ride in a vehicle from a civilian.

When Sergeant B arrived at XXXX S. Karlov Avenue, there were several officers in the backyard. Sergeant B did not hear any gunshots. Sergeant B spoke to Officer A to ensure that he was fine. Sergeant B walked Officer A from the scene to Officer A's vehicle. (Att.185)

In **interviews with IPRA** between May 24, 2016 and May 31, 2016, **Officer E, #XXXXX, Sergeant A, #XXX, Officer G, #XXX, Officer H, #XXXX, Officer I, #XXXXX, and Officer J, #XXXXX**, provided substantially the same description of the events related to the pursuit of Subject 1 and subsequent events and did not provide any additional relevant information. (Atts.186-188, 190-192)

Video & Audio Evidence

Video Surveillance Footage from Bank A shows multiple angles of Subject 1 entering the bank and immediately running up to one of the bank tellers. Subject 1 interacts with the bank teller for a short time and takes cash from the teller. Subject 1 puts the cash in his backpack and runs out of the bank through the same door that he had entered. The footage from Bank A confirms the statements of the bank employee witnesses. (Att.111)

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None of the in-car cameras from responding vehicles captured any video of the incident. In addition, the responding officers were not equipped with body-worn cameras. (Atts.149-161)

The **Office of Emergency Management and Communication (OEMC) Event Queries** and **Police Radio Transmissions** were collected and made part of this case file. The following is a summary of the relevant audio recordings. **Police Radio transmissions** document that on May 09, 2016, at 10:51 a.m., Beat XXX reports a wireless caller reported a bank robbery and that the offender pulled a gun. At 10:52 a.m., Beat XXXX reports, "Pointed the gun at plain clothes unit while changing clothes" and "off⁴ definitely pulled a gun on him." At 11:00 a.m., XXX reported "shots fired," and at 11:08 a.m., that "Officer Star #XXXXX⁵ shot 3 rounds." At 11:16 a.m., Beat 872 reported it was in the backyard of XXXX S. Karlov Avenue looking for shell casings. (Atts.42, 44)

Forensic Evidence

CPD Crime Scene Processing Reports XXXXXX and XXXXXX completed on May 10, 2016 document the evidence identified, collected, and inventoried in connection with this incident. A summary of that information is as follows:

The gun in the possession of Subject 1 was an unknown Brand and Model, .380 caliber pistol, 3½ barrel length, Serial #XXXXXXX, and Inventory #XXXXXXXXXX;. The evidence technicians recovered seven (7) live rounds from the firearm, including one in the chamber. The weapon has a capacity of 6 + 1 rounds.

Officer A's gun was a Glock model 21, .45 caliber semi-automatic pistol, Serial #XXXXXXX, and Inventory #XXXXXXXXXX. The gun magazine in the Glock had a thirteen (13) shot capacity and there were eight (8) WIN .45 caliber unfired rounds removed from the magazine and one (1) WIN .45 caliber unfired round removed from the chamber. The evidence technicians also searched the yards of XXXX and XXXX S. Karlov Avenue with a metal detector but did not find any shell casings. (Atts.36, 38)

Illinois State Police (ISP) Forensic Science Laboratory Reports dated August 03, 09, 18 and November 07, 2016, document that the gun in the possession of Subject 1 was a Pietro Beretta model 1934, .380 caliber semi-automatic pistol, Serial #XXXXXXX, and was operable. ISP entered the information related to a test fired cartridge case from the pistol into the Integrated Ballistics Identification System (IBIS) database but did not find any additional information through that search. ISP also examined Officer A's gun, a Glock model 21, .45 semi-automatic pistol, Serial #XXXXXXX, and a gun magazine, and found that it was operable. (Atts.195-198)

Evidence Technician Photographs and Video depict the scene and the recovered evidence. (Atts.163, 174)

Medical Reports

A **Chicago Fire Department Ambulance Report** documents that Ambulance XX arrived at the scene on May 09, 2016 at 11:09 a.m. They reported one individual shot at the scene. Paramedics from Ambulance XX treated Subject 1 and departed the scene with Subject 1 at 11:25 a.m. The victim was transported to Mt. Sinai Hospital and arrived there at 11:35 a.m. (Att.39)

⁴ Offender

⁵ Officer A

Medical Records from Mt. Sinai Hospital document that on May 09, 2016, Subject 1 received treatment for multiple gunshot wounds to his torso. Subject 1 was pronounced dead on arrival at 11:37 a.m. (Att.122)

The **Office of the Medical Examiner (M.E.) Report of Postmortem Examination** for Subject 1, M.E. Case #XXXX – XXXXX, by Dr. A, MD, documents that Subject 1 had an entrance gunshot wound to his right upper chest with a large caliber, yellow metal jacketed bullet recovered from the left back; an entrance gunshot wound to his right chest with an exit gunshot wound on the left side of his back; an entrance gunshot wound to his abdomen with an exit gunshot wound on his upper back; and an entrance gunshot wound to the right side of his back seventeen (17) inches beneath the top of the head, with an exit gunshot wound on his back eighteen (18) inches beneath the top of the head. Dr. A also documents that Subject 1 had gunshot graze wounds on his posterior right forearm and medial left thigh. Examinations of the skin surrounding the wounds revealed no evidence of close-range firing.

The report also noted red bruising and abrasions of his buttocks, forehead, and chest. The toxicology report documented that Subject 1 tested negative for Benzoylcgonine, Ethanol, Fentanyl, and Opiates. The cause of death was multiple gunshot wounds involving the lungs, heart, and aorta, and the manner of death was homicide. (Att.167)

Other Documentary Evidence

A **Tactical Response Report (TRR)** completed by **Officer A** documents that Subject 1 presented an imminent threat of battery. Officer A responded with member's presence and the discharge of his firearm. Officer A discharged his firearm five (5) times. (Att.8)

A **Tactical Response Report (TRR)** completed by **Officer B** documents that Subject 1 did not follow verbal direction, presented an imminent threat of battery, and attacked with a weapon. Officer B responded with member's presence and verbal commands. Officer B did not discharge his firearm. (Att.10)

The **Officer's Battery Report (OBR)** completed by **Officer A** documents that he was responding to a man with a firearm that had committed robbery on May 09, 2016, at approximately 1100 hours, in the vicinity of XXXX S. Karlov Avenue. The subject, Subject 1, pointed a firearm at Officer A. Officer A did not sustain any injuries. (Att.9)

The **Officer's Battery Report (OBR)** completed by **Officer B** documents he was responding to a man with a firearm that had committed robbery on May 09, 2016, at approximately 1100 hours, in the vicinity of XXXX S. Karlov Avenue. The subject, Subject 1, pointed a firearm at an Officer. Officer B did not sustain any injuries. (Att.11)

CPD's Bureau of Internal Affairs conducted an **alcohol and drug test** of Involved Officer A on May 09, 2016, beginning at 1418 hours,⁶ and the tests revealed that there were no drugs or alcohol in his system. (Att.25)

The **IPRA Preliminary Report** and the **CPD's Major Incident Notification (MIN) Report** both contain information identified and obtained in the preliminary stages of the investigation. (Att.4, 170)

⁶ 2:18 p.m.

ANALYSIS

Based on the totality of the circumstances, Officer A's use of deadly force against Subject 1 was objectively reasonable, and therefore, Within Department Policy. A preponderance of evidence demonstrates that Subject 1 presented an imminent threat of death or great bodily harm to Officer A because Subject 1 was pointing a gun directly at Officer A. As such, the use of deadly force by Officer A against Subject 1 was objectively reasonable and, therefore, within Department Policy as outlined by the Chicago Police Department's General Order 03-02-03, II; and the Illinois State statute. Officer A's use of force also complied with applicable constitutional standards.

CPD Policy, Illinois State Statute, & Constitutional Standards

The applicable Chicago Police Department's General Order is 03-02-03, II, 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 a deadly weapon or;
 - c) otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

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

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

Finally, determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989). See *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer's use of force is reasonable: (1) "the severity of the crime at issue;" (2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and (3) whether he is actively resisting arrest or attempting to evade arrest by

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flight.” *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). This reasonableness calculation ‘must embody allowance for the fact that police officers are often forced to make split second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.’ *Graham*, 490 U.S. at 396-97. Consequently, “when an officer believes that a suspect’s actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the officer can reasonably exercise the use of deadly force.” *Muhammed v. City of Chicago*, 316 F.3d 380, 383 (7th Cir. 2002) (quoting *Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir. 1988) (*en banc*) (omitting emphasis)).

Officer-Involved Shooting

There is a preponderance of evidence showing that Officer A reasonably believed that deadly force was necessary to prevent Subject 1 from causing death or bodily harm to Officer A or others. First, Officer A was aware that Subject 1 had previously robbed a bank and had pointed his firearm at another officer during the officer’s pursuit of Subject 1. Second, it is uncontroverted that Subject 1 was armed and pointed his firearm at Officer A. Accordingly, Officer A’s use of force was reasonable, and therefore, Within Department Policy.

1. Officer A was aware that Subject 1 had previously robbed a bank and had pointed his firearm at another officer during the officer’s pursuit of Subject 1:

Eyewitness accounts from officers and civilian witnesses support that Subject 1 robbed a bank at approximately 10:45 a.m. and, moments later, Subject 1 pointed his gun at Officer B. Officer A heard several radio transmissions describing these events. In addition, Officer A spoke to Officer B in person after Subject 1 had pointed his gun at Officer B, and Officer B further made Officer A aware of these events. Based on the information available to Officer A at this point, it was reasonable for him to believe that Subject 1 was armed.

The fact that Subject 1 was armed, alone, is not justification for the use of deadly force against him. Pursuant to law and Department policy, the officer’s use of deadly force must have been predicated on the need to use force to address an imminent threat to the officer or others. However, the fact that Subject 1 displayed this violent behavior in the presence of others, including Officer B, in the moments preceding him being shot by Officer A, is probative as to whether Officer A was reasonable in his belief that Subject 1 was a threat.

2. Officer A was reasonable in his belief that Subject 1 was a threat because he was armed and pointed his firearm at Officer A:

In the minutes leading up to the officer-involved shooting, Subject 1 had been running to evade officers for approximately 10-15 minutes. Subject 1 had already been ordered to stop running by Officer B but continued to evade officers. Subject 1 apparently decided to lay down in an attempt to hide in the backyard of XXXX S. Karlov. Subject 1 lay in this position with his gun in his hand. Officer A was in the process of searching the backyard of XXXX S. Karlov and, when he spotted Subject 1, Subject 1 already had his gun pointed at Officer A and said to Officer A “do somethin’.”

Officer A immediately fired five shots⁷ at Subject 1, striking him four times in the chest, abdomen, and the back. Three of Subject 1’s gunshot entrance wounds were to the front of his body. The fourth gunshot

⁷ The shell casings from the five shots discharged from Officer A’s gun were not recovered from the area of the shooting and there is no evidence to explain what happened to the shell casings after they were ejected from the gun. While considered, the absence of the shell casings does not provide grounds, under the preponderance of evidence, to alter the findings herein.

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entrance wound was in the right side of the back seventeen inches below the top of the head and the exit wound was also in the back eighteen inches below the head. The evidence does not indicate that Officer A shot Subject 1 while Subject 1 had his back turned to Officer A but instead, the preponderance of the evidence, including the shot at issue having both an entry and exit wound in the back, indicates that the shot was from an angle or a ricochet. From the evidence obtained and analyzed in this investigation, IPRA did not find anything that refutes Officer A's account of what took place between Subject 1 and Officer A in the seconds leading up to and including the shooting.

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

CONCLUSION AND FINDING

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