

TO: Interim Chief Administrator
Civilian Office of Police Accountability¹

FROM: COPA Investigator A

SUBJECT: Log #1086383
U# 17-018

LOCATION: XXXX W. 56th Street (Park Property- Chicago Park A); Beat XXX.

REFERENCE: RD# XXXXXXXXX / Aggravated Assault/Use Firearm/Peace Officer;
UUW-Weapon-Felon, Possess/Use Firearm)
Event #XXXXXXXX
ISP Case #XXXXXXXX

INVOLVED OFFICER: Officer A; Chicago Police Officer; Star #XXXXXX; Hispanic male; Unit XXX; Employee #XXXXXX; DOB: XXXXXXXX; DOA: 01 May 2006; On-Duty; Civilian Dress; Beat XXXX.

INVOLVED OFFICER'S WEAPON: Springfield Model XD-45; 45 ACP caliber semi-automatic pistol; approx. 4" barrel; blue-steel; Serial #XXXXXXXX; City Registration #XXXXXXXX; FOID #XXXXXXXX; Winchester 45 auto ammunition; twelve (12) live rounds recovered from chrome magazine, one (1) live round recovered from the chamber; listed weapon capacity of thirteen (13) rounds; fired one (1) time.

INVOLVED OFFICER'S INJURIES: None Reported

WITNESS OFFICER: Officer B; Chicago Police Officer; Star #XXXXXX; Unit XXX; black male; Employee #XXXXX; DOB: XXXXXX; DOA: 26 September 2005; On-Duty; Civilian Dress; Beat XXXX.

WITNESS OFFICER'S INJURIES: None Reported

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendations set forth herein are the recommendations of COPA.

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SUBJECT: Subject 1²; Hispanic male; DOB: XXXXXXXX; IR #XXXXXXX; Address: XXXXX W. 26th Street, #XX, Cicero, IL 60804.

SUBJECT'S

WEAPON: Bryco, Model 25 Auto, 25 caliber semi-automatic pistol; approx.. 2" barrel; blue steel; Serial #XXXXXXXX; one (1) black magazine, unknown capacity; one (1) live round, head stamped "25 auto" recovered from the chamber. (Inventory #13985056)

**SUBJECT'S
INJURIES:**

One (1) graze wound to the head; non-fatal; treated at Hospital A.

IPRA

NOTIFICATIONS: IPRA Deputy Chief Administrator A
IPRA Supervising Investigator A
IPRA Supervising Investigator B
IPRA Major Case Specialist A
IPRA Major Case Specialist B
IPRA Major Case Specialist – COPA Investigator A

**DATE & TIME OF
INCIDENT:** 19 August 2017, at approximately 2047 hours

**TIME OF IPRA
NOTIFICATION:** 19 August 2017, at approximately 2112 hours

**TIME IPRA
ARRIVED
ON-SCENE:** 19 August 2017, at approximately 2215 hours

SUMMARY OF INCIDENT:

On 19 August 2017, at approximately 2047 hours, Officer A and Officer B were working Beat XXXX and were conducting routine patrol. The officers were heading northbound on XXXXXXXX Avenue when they observed approximately six individuals around a bench by the swimming pool at Chicago Park A. The individuals were smoking and drinking what appeared to be alcoholic beverages. The officers shone their vehicle's spotlight on the group and exited the vehicle. As the officers approached the group, they heard a metal "clank" on the sidewalk and observed that it was a gun. Officer A ran to pick it up but the subject, Subject 1, reached down to pick up the gun. Officer A ordered Subject 1 not to pick it up. Subject 1 picked up the gun and ran westbound to the playground fence. Subject 1 climbed on top of the fence and pointed the gun at Officer A. Officer A raised his hand above his head, pointed it downward and discharged his firearm once. Subject 1 fell to the ground inside the playground and Officer B handcuffed him.

² Although his arrest report lists his last name as "[different spelling of Subject 1's last name]," the correct spelling is "Subject 1," as confirmed by the subject, Subject 1.

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Subject 1 sustained a graze wound to his head. Officer A picked up Subject 1's gun because a hostile crowd was approaching. Officer A later handed the gun to his supervisor, Sergeant A #XXXXX. One shell casing was found on the west side of the playground fence; one fired bullet was found in the ground inside the playground. Chicago Fire Department Ambulance #X responded to the scene and transported Subject 1 to Hospital A, where he was admitted for medical treatment.

APPLICABLE RULES:

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

INVESTIGATION:

According to the **Department Reports (Arrest Report, Major Incident Detail Report)** Officers A and B observed several individuals drinking alcoholic beverages in the city park. The officers approached to conduct a field investigation and observed a firearm fall to the ground. The offender, Subject 1, attempted to conceal the firearm with a rag. Subject 1 then picked up the firearm and attempted to flee. Officer A grabbed ahold of Subject 1's shirt, as Subject 1 attempted to flee and failed to adhere to verbal directions. Subject 1, holding the firearm in his right hand, then pointed the firearm at Officer A. The officer discharged his service weapon one time at Subject 1, striking him in the head area. Subject 1 was placed in custody and EMS was requested. The firearm was immediately recovered and found to be loaded with one round in the chamber. (Att. #'s 9, 130)

According to a **Tactical Response Report (TRR)**, completed by Officer A, Subject 1 did not follow verbal direction, stiffened, fled, pulled away, placed Officer A in imminent threat of battery, and used force likely to cause death or great bodily harm with a weapon. Officer A responded with member presence, verbal commands, held onto Subject 1's shirt, and used his firearm. The TRR indicates Officer A fired a total of one (1) round. In the "Additional Information" section, Officer A states, "Assailant pointed a firearm at R/O as he was attempting to defeat a lawful arrest." (Att. #10)

According to the **Officer's Battery Report (OBR)**, completed by Officer A, he was on duty, in citizen's dress, and working with one partner. The report identifies the Type of Weapon/Threat as "Officer at Gunpoint". Officer A was not injured. (Att. #11)

IPRA investigators conducted **two separate canvasses** of the location of the incident in an attempt to locate additional witnesses and/or evidence. The canvasses did not yield any witnesses or additional information. (Att. #'s 57-59)

Video Recordings were obtained from multiple in-car camera surveillance systems, body worn cameras, the Gas Station A at XXXX S. Western, Chicago Park A High School, POD #'s XXXX and XXXX, and Chicago Department of Transportation speed cameras. None of the recordings captured the incident. Officer A's vehicle, Vehicle #XXXX, is an unmarked police vehicle and not equipped with an in-car camera surveillance system. There is no known video footage that captures any portion of this incident. (Att. #'s 92-98, 121-123)

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The **Chicago Fire Department Ambulance Report** from Ambulance #XX documents that EMS personnel arrived at 56th and XXXXXXXX at 2053 hours. Subject 1 met the ambulance curbside walking in police custody. Subject 1 had a gunshot wound to the back of his head. The wound is described as approximately 4” long. The wound appeared to be a graze wound. Subject 1’s only complaint was a burning sensation to the back of his head. The bleeding was controlled with wound dressing. Subject 1 told the paramedics that he was running with a gun from the police when he was shot. Subject 1 was then transported to Hospital A. (Att. #77)

The **Medical Records** obtained from **Hospital A** indicate that Subject 1 was received at the hospital Emergency Room via ambulance for a gunshot wound to the head. Subject 1 told hospital personnel that he was “running from the narcs” in the park when he was shot in the back of the head. According to Subject 1, he was climbing the fence when he was hit and fell to the ground. Subject 1 was tearful and complained of head and neck pain. Subject 1 admitted to smoking marijuana earlier that day at approximately 2:30 p.m. and admitted to drinking Hennessy “immediately PTA”³. The medical records describe Subject 1’s injuries as a five (5) centimeter bullet graze to the left parietal head and an abrasion to his left shoulder. Subject 1 received medical treatment and was released on 21 August 2017. (Att. #90)

Evidence Photographs depict Subject 1 and the graze wound on his head (see below); the crime scene; Subject 1’s clothing and accessories; and Subject 1’s tattoos. (Att. #'s 70, 73, 99)



Three **Crime Scene Processing Reports** are associated with RD #XXXXXXX. Report #XXXXXX documents that Subject 1’s firearm was recovered. The firearm is described as a Bryco, Model 25 Auto, with a magazine of unknown capacity. There was one (1) live round of ammunition in the chamber of that weapon. In addition, Officer A’s Springfield XD45 ACP was recovered with a thirteen (13) round capacity magazine. There were twelve (12) live rounds of ammunition in the magazine, and one (1) live round of ammunition in the chamber of that weapon.

Moreover, the report documents that a number of Crime Scene Markers (CSM’s) were placed in the crime scene and photographed. Specifically, CSM #1, a fired cartridge case head stamped “Winchester 45 Auto” was recovered from the ground in the fenced playground area. CSM #2 identifies a towel, orange in color, that was recovered from the ground near the fence in the playground area. CSM #5 marks a fired bullet recovered from the ground in the playground area and CSM #6 indicates red stains, suspect blood, on the ground in the playground area. CSM #'s 3 and 4 include an empty Hennessy Cognac bottle, other empty bottles of alcohol and plastic cups.

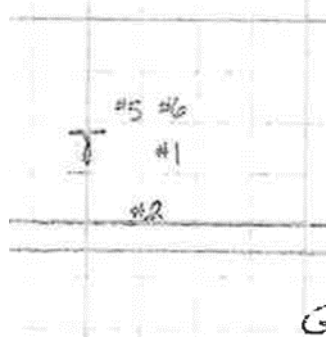
Report #XXXXXXX documents the photographing of Subject 1 at Hospital A. Finally, Report #XXXXXX documents the opening of Inventory #13984313 in order to verify the Serial Number of the Bryco firearm; the firearm was then re-inventoried under Inventory #13985056. (Att. #'s 69, 72, 152)

³ “PTA” in this situation refers to “prior to arrival.”

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An excerpt from the **Diagram** of the crime scene depicts the positions of the crime scene markers #'s 1, 2, 5 and 6 (see below). (Att. #150)



Illinois State Police Forensic Science Laboratory Reports (ISP)

document the examination of recovered firearms evidence in this incident. An analysis of the reports resulted in the following facts that are relevant to this investigation:

An examination of one pistol, one magazine and one live cartridge recovered from Subject 1 revealed no latent impressions suitable for comparison.

One Winchester 45 auto caliber fired cartridge casing recovered from the ground of the fenced playground area was identified as having been fired by Officer A's firearm.

The examination of Officer A's weapon determined it to be operable as received and it was test fired using a magazine and ammunition submitted with that weapon. The examination of the Bryco Arms Model 25, 25 Auto caliber semiautomatic pistol determined it to be operable as received and it was test fired. The Bryco magazine fit but did not function in the Bryco pistol. A test-fired casing was entered into the IBIS⁴ database, but no identification was made.⁵ (Att. #'s 126, 132)

In an **Electronically Recorded Interview**⁶ (ERI) of **Subject 1** on 19 August 2017, Detective A began the interview by asking Subject 1 whether he understood that he was being recorded and that he agreed to it, and Subject 1 answered in the affirmative. Subject 1 then stated that he was with his fiancée, Civilian 1, and was hanging out with some black male acquaintances. Subject 1 stated that he was enjoying himself, smoking marijuana and drinking. He was positioned by the fence and heard a black male say "narcs." Subject 1 observed a "dark" vehicle enter the park but did not see the officers. Subject 1 began to walk away with Civilian 1 because he had a DUI conviction and had some marijuana on him but did not remember how much. As Subject 1 was following Civilian 1, he heard "something hit the floor" directly in front of him. Subject 1 recognized it as a "pistol" and described it as a "little small gun." Subject 1 was not sure about the color of the firearm but believed that it was black. Subject 1 picked up the gun and looked back at the officers. Subject 1 stated that he did not remember what the officers said. Subject 1 stated that he knew that he could not be around guns. He "grabbed" the gun and started running. Subject 1 first jumped a bench and then tried to jump a black fence. As Subject 1 was jumping the fence, he heard a loud "bang" and ducked. Subject 1 felt pain in his head and Officer B came up to him and tried to help. Subject 1 stated that Officer B asked the shooting officer, now known as Officer A, why did he shoot Subject 1. Officer A asked Subject 1, "Why you point the gun at me?" Subject 1 denied that he pointed the gun at the officer. At the conclusion of the ERI, Detective A asked Subject 1 if the detective had read him his rights prior to taking his statement and Subject 1 confirmed that the detective had done so. (Att. #6)

⁴ Integrated Ballistics Identification System, which compares fired evidence to other crimes.

⁵ This report is awaiting the results of the ISP's examination of the fired bullet to confirm that it was fired from Officer A's firearm.

⁶ The interview was recorded on Officer C #XXXXX's body-worn camera. Subject 1 is lying on what appears to be a hospital bed. The video recording is time stamped "221104" on 19 August 2017.

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In a **To/From/Subject Report**, COPA Investigator B documented her conversation with Subject 1 on 19 August 2017 at Hospital A. This conversation was not audio recorded. Subject 1 told COPA Investigator B that he and Civilian 1 had picked up some liquor and arrived at Chicago Park A around 1600 or 1700 hours. Subject 1 stated that he was drinking and smoking marijuana and was hanging out with unknown African Americans. Subject 1 stated that he was not hanging out with other Hispanics. Subject 1 was kissing Civilian 1 when he heard someone say that “narc” were at the park. Subject 1 and Civilian 1 started to walk away because they had approximately \$20 worth of marijuana on them. Subject 1 did not indicate whether he or Civilian 1 possessed the bag. Subject 1 stated that he looked back and saw an unmarked police vehicle and two officers in civilian dress approximately thirty to forty feet away. As Subject 1 was walking, a pistol fell to the ground in front of him. Subject 1 did not know who owned the gun or who dropped the gun. Subject 1 picked up the gun and started to run. Subject 1 jumped over a wooden bench and ran toward a black fence near a playground. Subject 1 could not explain why he picked up the gun, but stated that he ran because he had been arrested before and he did not want to go to jail. Civilian 1 did not run with Subject 1 and was farther back, closer to the police officers. Holding the gun in his hand, he used both hands to climb over the fence. Subject 1 believed that the officers were very close, approximately three to five feet behind him. As he was jumping over the fence, Subject 1 heard an unknown person state, “Don’t shoot” and then heard a gunshot. Subject 1 stated that he reacted by moving “like a turtle,” which he described as ducking his head down. Subject 1 felt something hit him and fell to the ground on the other side of the fence. Subject 1 heard a black male officer, now known as Officer B, “What you doing? Why’d you shoot?” Subject 1 added that he did not hear any verbal commands from any officer before he was shot. Officer B tended to Subject 1 and tried to keep him calm. Subject 1 stated that the shooting officer, who he described as a Hispanic or Asian male, was trying to “get his story straight” because Subject 1 heard him state, “You pointed your gun at me.” (Att. #55)

In an **Electronically Recorded Interview** on 19 August 2017, the **witness, Civilian 1**, stated that she and Subject 1 had been at the park less than thirty minutes when “some bullshit” happened between unknown black individuals and Subject 1. Civilian 1 stated that she tried to “keep everything cool” by offering drinks. The black individuals offered food in return and told Subject 1 and Civilian 1 that “everything was cool.” Civilian 1 received her bottle back and bent over to pour herself a drink when she heard shots fired and people screaming. Civilian 1 turned to her left and saw Subject 1 on the ground, with two males pointing their guns at him. Civilian 1 jumped over a bench and ran toward Subject 1. Civilian 1 described herself as “hysterical” and “screaming.” Civilian 1 stated that Subject 1 was screaming her name. The two males pointed their firearms at Civilian 1 and ordered her to stand there and not to move. Civilian 1 complied and a black female came up to Civilian 1 and pulled her away, telling her that everything will be OK. Civilian 1 stated that she had not seen the unmarked police vehicle until she had turned around and saw Subject 1 on the ground. Civilian 1 stated that she heard two or three gunshots but did not observe the officer shoot Subject 1. Civilian 1 was asked by the detectives whether she was intoxicated at the time of the interview and Civilian 1 replied that she was not intoxicated. (Att. #7)

In an **Electronically Recorded Interview** on 21 August 2017 at Area North, the **witness, Civilian 2**, stated that she arrived at Chicago Park A at approximately 1700 hours for her son’s birthday party. Civilian 2 set up three grills on a brick wall by the swimming pool and was cooking.

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At approximately 2045 hours, Civilian 2 observed an SUV enter the park. It was getting dark, but the park lights were on and Civilian 2 was able to see. Civilian 2 recognized the SUV as a police vehicle, but did not remember if it was marked or unmarked. Civilian 2 then observed two Hispanic males, one of whom picked up something off the ground. Civilian 2 described that Hispanic male as the shorter of the two males and as “skinny” with “jet black hair.” Civilian 2 also recognized two police officers based on their vests with police insignia and their duty belts. The shorter Hispanic male then ran toward the playground and the shorter of the two officers chased after him. The Hispanic male jumped over the fence, turned toward the officer with his arm extended and pointed something, which was in his hand, at the officer. Civilian 2 could not see what was in the Hispanic male’s hand because barbecue smoke was in her eyes. Civilian 2 stated that the officer, who was still outside the playground fence, drew his firearm and fired one gunshot. The other officer handcuffed the Hispanic male and sat him up. The crowd asked the officer why he shot the Hispanic male and the officer picked up the object that was in the Hispanic male’s hand and held it up to the crowd. Civilian 2 observed that the object was a gun and described it as a black or gray firearm that was about the size of her palm; Civilian 2 stated that the firearm looked like a .22 caliber. The officers called for backup and the assisting officers helped move Civilian 2 and the party away from the crime scene. Civilian 2 stated that she called the police and informed them that she had witnessed the incident. Civilian 2 was presented with a mugshot and identified the individual as the “little guy” that was on the ground. In response to the interviewer’s question if she had been offered anything in exchange for her statement, Civilian 2 responded in the negative. (Att. #118)

The **Detectives’ Supplementary Report for RD #XXXXXXX** documents in essence the same information provided in the Introduction of this report, the Departmental reports, and the information provided by the involved officers and witnesses. The detectives interviewed the **involved member, Officer A**, who stated that he and his partner, Officer B, were working Beat XXXX in civilian dress with police identifiers displayed. Officer A was the driver of a gray unmarked police vehicle. As they drove northbound on XXXXXXXX Avenue toward 56th Street, Officer A observed a group of six to seven individuals sitting and standing near some benches in Chicago Park A. The officer drove the police vehicle to just south of the park benches and parked. Officers A and B exited their vehicle and began to approach the group. Officer A observed one Hispanic male wearing a red shirt and one Hispanic female standing near the park benches and the swimming pool area fence. As the officers continued to approach the group, Officer A heard a noise and then observed what he believed to be a black handgun on the ground directly in front of the Hispanic male. The Hispanic male then bent down and dropped a yellow-colored rag or towel over the handgun. The Hispanic male then grabbed the rag or towel as he covered the weapon and then attempted to flee the scene. Officer A gave chase and was able to grab Subject 1’s red shirt as Subject 1 jumped over a park bench. The officer also jumped over the park bench while he continued holding on to Subject 1’s shirt. Officer A and Subject 1 struggled near the fence area and Officer A drew his duty weapon while continuing to give Subject 1 verbal commands to drop the weapon. Subject 1 attempted to get over the fence and raised his right hand in which he was holding the handgun. Subject 1 then pointed the handgun in the direction of Officer A’s face. Fearing for his life, Officer A released Subject 1’s shirt and fired his duty weapon in the direction of Subject 1. Subject 1 made it over the fence, took approximately two steps and fell to the ground. Officer A then observed Officer B place Subject 1 into custody. Officer A stated that a large group emerged and he ordered the group to back away. Officer A recovered Subject 1’s handgun from the ground near the fence where Subject 1 had jumped over.

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The detectives also interviewed the **witness officer, Officer B**, who stated that he and his partner were on routine patrol and traveled northbound through Chicago Park A. Officer B observed a group of individuals by a bench. The officer observed smoke emitting from the group and noticed bottles on the ground, which the officer believed to be liquor bottles. Officer B exited the vehicle and began walking toward the group. Officer B heard an object fall to the ground and looked in the direction of where the sound came from. The officer stated that he then observed a gun on the ground. Officer B observed Subject 1 walk to the gun, drop a piece of cloth over the gun and picked it up. Subject 1 ran westbound, jumping over a park bench. Officer B stated that he heard Officer A order Subject 1 to drop the gun. Subject 1 attempted to jump the fence which surrounds the play lot while still holding the gun. Officer A then fired once at Subject 1. Subject 1 made it over the fence and fell to the ground. Officer B jumped over the fence and placed Subject 1 into custody. Officer B immediately notified the police dispatcher that shots were fired by the police and discovered that Subject 1 had been shot. The officer requested an ambulance for Subject 1. Officer B stated that as he was placing Subject 1 into custody, Subject 1 told him that the individual he was with told him to pick up the gun.

In addition, the detectives interviewed **Subject 1**, who stated that he and his fiancée, Civilian 1, were walking in Chicago Park A, when an unmarked police SUV drove into the park. Subject 1 stated that he had previously observed a group of black individuals who were having a picnic in the park. As the police approached, some people began walking away and one black male walked past Subject 1 and dropped a gun in front of him. Subject 1 heard the sound of the gun landing on the ground and then observed the gun on the ground. Subject 1 also heard the police officer say something but did not know what the officer said. Subject 1 picked up the gun and ran away from the police. He first jumped over a bench and then a small black fence. Subject 1 stated that he ducked, heard a “bang” and felt pain in his head. Subject 1 stated that he was carrying a \$20 bag of marijuana in his hand, because his shorts did not have any pockets. The non-shooting officer then began to give aid to Subject 1. Subject 1 agreed to have his account memorialized with video and was re-interviewed on an officer’s body-worn camera.

The detectives interviewed the **witness, Civilian 1**, who stated that she and Subject 1 went to Chicago Park A after buying a bottle of Hennessy Cognac and having dinner. They walked to the fence line near the pool area. A barbeque was taking place nearby in the park. Several friends of Subject 1 arrived and hung out with them. Civilian 1 stated that they were drinking liquor and smoking weed when their group was approached by a group of unknown black males. One black male told Civilian 1’s group, “This is my hood, we run this shit.” Civilian 1 tried to calm the situation and offered the black males some Hennessy to drink. As Civilian 1 bent over her cup to pour herself a drink, she observed a gray truck arrive. Civilian 1 stated that she faced away from the truck and that Subject 1 stood between her and the truck. Civilian 1 estimated that there were five to six people in her group. Civilian 1 did not observe the occupants of the truck exit the vehicle. Civilian 1 stated that she was still facing away, when she heard approximately two gunshots fired. Civilian 1 did not see who fired the gunshots but then observed Subject 1 lying on the ground with two males standing over him and pointing their firearms at his body. Civilian 1 stated that once she heard the gunshots, she attempted to flee on foot; however, she was then ordered by a police officer to stop and not to move and she complied. Civilian 1 returned near the area where Subject 1 was lying on the ground and attempted unsuccessfully to record the incident. Civilian 1 stated that she did not observe any individuals identify themselves as police officers and did not hear any

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voices prior to the gunshots. Civilian 1 added that she did not observe anyone in her group in possession of a handgun. Subject 1 was then taken away for treatment and Civilian 1 was transported to Area Central where she agreed to provide an electronically recorded interview.

The detectives interviewed the **witness, Civilian 3**, at the scene. Civilian 3 stated that she and other family members were barbecuing in the park and she observed two males and two females playing dice. Civilian 3's brother walked southbound past the group to retrieve something from Civilian 3's vehicle and Civilian 3 observed a police SUV vehicle approaching from the south and heading toward the individuals playing dice. As the police vehicle approached the group, one of the male individuals dropped a black object to the ground and walked away in a northbound direction. A second male walked up to the object, picked it up and ran westbound toward a fence. A black male police officer pursued the male individual, who was jumping the fence. A Hispanic male police officer then discharged his firearm at the male individual who fell to the ground. Civilian 3 stated that she was upset after the shooting because her children were in the playground where the incident occurred. The Hispanic male officer then showed her a small black handgun that was recovered from the male running with the black object.

The detectives also interviewed the **witness, Civilian 5**, at the scene. Civilian 5 stated that she is Civilian 3's cousin and was barbecuing with her family. Civilian 5 observed four males and one female rolling dice near the park benches. A police vehicle then pulled up and one of the males that were playing dice walked away at a fast pace. A second male picked up a gun from the ground. The second male then jumped over the fence as a Hispanic male officer chased him. Civilian 5 observed the gun in the air and then heard a gunshot. Civilian 5 did not have anything more to add and the interview was terminated.

The detectives interviewed **witness, Civilian 6**, who stated that she was at Chicago Park A for a barbecue/birthday celebration. Civilian 6 observed an unmarked police SUV drive into the park and saw two police officers exit their vehicle and walk toward several subjects who were standing near the fence to the pool area and some benches. As the officers approached the subjects, she observed a Hispanic male, now known as Subject 1, bend over and pick up something from the ground. Once he picked up the object, Subject 1 jumped over a park bench and ran westbound toward the metal fence which cordoned off the playground. The officers chased Subject 1 to the metal fence. Subject 1 jumped the fence and Civilian 6 observed the shorter police officer fire his weapon. The second police officer jumped the fence, handcuffed Subject 1 and sat him up. Civilian 6 stated that she heard the shooting officer say that Subject 1 had a gun.

The detectives interviewed **witness, Civilian 2**, who stated that she arrived at Chicago Park A at approximately 1700 hours for a birthday party for her son, Civilian 4. Civilian 2 set up three grills in the park, parallel to the fence surrounding the pool area. At approximately 2045 hours, Civilian 2 was cooking food on the grills, when she observed several members of their group near the benches as well as another group of Hispanics. She observed an unmarked police vehicle pull up near their area. Civilian 2 observed a Hispanic male, now known as Subject 1, reach to the ground and pick up a dark object, about the size of her hand. Subject 1 then ran westbound toward the fence which surrounded the playground. One officer chased Subject 1. As Subject 1 jumped over the metal fence, he turned toward the police officer, who was at the metal fence, and extended his arm toward the officer. Civilian 2 then heard a "pop" sound that she thought were fireworks. Subject 1 fell to the ground, while the second officer jumped the metal fence and handcuffed

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Subject 1. The second officer helped Subject 1 into a sitting position. One of the officers recovered a dark-colored handgun which she believed to be a .22 caliber handgun. Civilian 2 stated that the officer picked up the weapon from the ground by the metal fence. Civilian 2 stated that she came forward because the police officers acted appropriately and professionally, and did not want to see them face any disciplinary action for doing their job within the rules.

The detectives conducted a second interview of the **witness, Civilian 3**, who stated that she and her family were having a picnic at Chicago Park A. Civilian 3 asked her brother Civilian 4 to retrieve more cups from her car which was parked at XXth and XXXXXXXX. As her brother walked southbound to the car, Civilian 3 was looking in that direction because she had remotely unlocked the car doors. Civilian 3 observed a police SUV traveling northbound in the park. The vehicle stopped and two officers partially exited the vehicle and shone their flashlights toward a group of individuals playing dice. Civilian 3 observed a Hispanic male drop a black object and walk away. A second Hispanic male picked up the black object and immediately ran westbound toward the fence that surrounds the playlot. The Hispanic male proceeded to jump the fence and was still holding the black object in his hand. One of the police officers, also a Hispanic male, remained on the east side of the fence and held a gun in his hand. Civilian 3 then heard gunshots but did not see the officer fire his gun. The Hispanic male who had jumped the fence, fell to the ground and Civilian 3 thought that the Hispanic male had been shot in the leg. Civilian 3 then observed a black male police officer with the Hispanic male on the west side of the fence. Civilian 3 stated that after the shooting she learned that the small object that Subject 1 picked up was a small caliber handgun, after the officers showed her the handgun. (Att. #'s 66, 68)

Attempts to obtain statements from witnesses other than those documented below, via telephone, U.S. mail, and/or personal visit, were unsuccessful. (Att. #'s 5, 83, 124, 142-143, 145-149, 154-155)

The **Office of Emergency Management and Communication (OEMC) Event Queries and Radio Transmissions** documented that at approximately 2047 hours, an unidentified male officer is heard stating, "shots fired, squad, shots fired, in the park" and then requests an ambulance. The dispatcher asks for location and the same officer responds, "Squad, shots fired by the police, weapon recovered, send ambulance, squad." The officer then reports location as "56 and XXXXXXX" and his beat number as XXXX. The officer specifies his location as "between pool and playground" and states, "We are OK." The officer asks for more units. Additional units respond until a slowdown is requested. (Att. #'s 13-17, 41)

CIVILIAN WITNESS STATEMENTS

In a **statement to IPRA**, on 24 August 2017, the **witness, Civilian 1**, stated that she and Subject 1 were sitting down on a bench at the park and drinking Hennessy. A couple of other Hispanic males, who Civilian 1 did not know, were hanging out with them. A crowd of fifteen to twenty African Americans were having a cookout. Civilian 1 and Subject 1 had been at the park for approximately twenty minutes when a "misunderstanding" occurred between some black males and Subject 1 and the other Hispanic males who were there. To calm things down, Civilian 1 offered the bottle to one black male who was standing in front of her. The black male took the bottle and returned it to Civilian 1. Civilian 1 and Subject 1 talked with the black male for five to

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ten minutes. Civilian 1 stated that she stood facing the black male, who had his back toward the swimming pool, and Subject 1 was standing to her right. Civilian 1 stated that the black male held an orange- or yellow-colored cloth that he used to wipe the sweat from his face. As she bent down to pour herself some Hennessy, she observed from her right-hand side a car coming through the park. Civilian 1 stated that she thought that the people who were cooking out were about to pack their stuff. Two unknown males wearing blue jeans exited the vehicle. The two unknown males began running toward the groups on the benches and Civilian 1 noticed that people around her started running away. Civilian 1 heard a metal object hit the ground and observed the black male, who was in front of her, also run. The black male jumped a bench and ran toward the group having the cookout; Civilian 1 stated that she did not see that black male again. Civilian 1 looked to her right, where Subject 1 had previously been standing, and saw that he was no longer there. Civilian 1 then observed Subject 1 running toward a fence with two unknown males following him. Civilian 1 stated that the two unknown males never identified themselves as police officers and Civilian 1 thought that they were “gangbangers trying to shoot” Subject 1. Civilian 1 stated that it was dark and she could not discern whether they were officers. Subject 1 placed both hands on the fence and jumped on top of the fence. Civilian 1 observed one of the unknown males, about five feet behind Subject 1, point a firearm at Subject 1 in a southwesterly direction. Civilian 1 stated:

Page 55, Line 5

Q: And, how did the officer who shot his weapon, hold his weapon? So, you’re showing me with both hands, he’s holding it with both hands?

A: Like this.

Q: Extended forward, is that correct?

A: Uh-huh.

Q: Okay. And, did he aim straight?

A: He was aiming at [Subject 1], even when [Subject 1] was on the floor.

Civilian 1 heard one gunshot and saw Subject 1 fall to the ground. Civilian 1 stated that she panicked and ran to the fence. The unknown male who had shot at Subject 1 turned around and Civilian 1 recognized him to be an officer in civilian dress. The officer then told Civilian 1, “Stop right there. Don’t move.” Civilian 1 asked the officer, “Why did you shoot him? He didn’t do anything to you.” An unknown black female came up to Civilian 1 and tried to calm her down, while Subject 1 was telling her to “record” what was happening. Civilian 1 described herself at that point as “hysterical.” The officer told Civilian 1, “He tried to shoot at me.” Civilian 1 stated that Subject 1 did not have a gun and did not point a gun at the officer. A uniformed officer approached and told her that the police were taking her in as a witness. Civilian 1 refused to go and the shooting officer then grabbed her purse, opened it and found a knife and marijuana. The officer then told Civilian 1 that if she did not get into the squad car she would be charged for possession. At the police station, Civilian 1 was told that Subject 1 tried to “shoot at the cops.” Civilian 1 denied the alleged action and added that she did not see any officer recover a firearm at the scene. (Att. #'s 45, 89)

In a **statement to COPA** on 12 October 2017, the **witness, Paramedic in Charge A**, stated that she did not recall responding to an incident at Chicago Park A on the above date and time. Paramedic in Charge A was then presented with an ambulance run sheet, which she identified as the one that she completed for the transport of Subject 1. Paramedic in Charge A did not recall who she was working with on that date. Paramedic in Charge A stated that she and her partner

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received a dispatch for a gunshot. Paramedic in Charge A did not recall where they were when they received the dispatch. Paramedic in Charge A stated that she observed “a lot of police” when she arrived. Paramedic in Charge A exited the vehicle but did not walk past the sidewalk because Subject 1 was walking toward the ambulance, escorted by an unknown police officer. Paramedic in Charge A was presented with a photograph of Subject 1 but Paramedic in Charge A stated that she did not recognize him. Paramedic in Charge A stated that Subject 1 did not say anything to her as he approached and she did not recall whether the police officer said anything to her. Paramedic in Charge A observed that Subject 1 had sustained a graze wound to the back of his head and she performed bleeding control and set up an intravenous. Paramedic in Charge A was presented with a photograph of Subject 1’s injury and recalled treating the graze wound. Paramedic in Charge A stated that Subject 1 told her that he was with a group of people who ran from the police. Subject 1 added that somebody had a gun which Subject 1 picked up and then ran. Paramedic in Charge A stated that she did not receive any information from the police regarding the incident. Paramedic in Charge A recalled that a short, “chubby Mexican” female with long hair asked if she could ride with Subject 1 to the hospital, but Paramedic in Charge A refused. Paramedic in Charge A stated that an officer rode in the ambulance, but she did not recall the officer’s identity. Paramedic in Charge A bandaged up Subject 1 and filled out the run sheet on the way to the hospital. Paramedic in Charge A asked to refer to the run sheet because she could not recall which hospital Subject 1 was transported to. (Att. #'s 100-104)

In a **statement to COPA** on 13 October 2017, the **witness, Civilian 2**, stated that she was celebrating her son’s birthday with family and friends at Chicago Park A. Civilian 2 was grilling meat by a “brick wall” north of the playground. Civilian 2 stated that a group of Hispanics were hanging out by a bench and a group of males from her party were sitting on a bench next to them. Civilian 2 stated that the two groups were not interacting with each other. Civilian 2 stated that there was still daylight at the time. As Civilian 2 was cooking at the grill, she observed a “skinny” Hispanic male with black hair pick up something from the ground; Civilian 2 did not recall where the Hispanic male picked up the object and did not see what the Hispanic male picked up. The Hispanic male then took off running toward the fence of the playground. Civilian 2 heard someone screaming, “He’s got a gun! He’s got a gun!” Civilian 2 was not certain who was screaming and stated that it could have been an individual from her party. Although smoke was in her eyes, Civilian 2 had an unobstructed view of the Hispanic male. Civilian 2 observed one officer pursue the Hispanic male to the fence. Civilian 2 stated that the officer was not “that far behind” the Hispanic male. Civilian 2 could not remember whether the officer had grabbed ahold of the Hispanic male or whether the officer had his firearm in his hand. Civilian 2 observed the Hispanic male turn toward the officer with his arm extended. Civilian 2 stated that she thought that the Hispanic male had already jumped over the fence when he turned toward the officer. Civilian 2 observed that the Hispanic male was holding an object in his hand, which he pointed at the officer. Civilian 2 did not recall if the Hispanic male turned to his right or to his left when he turned toward the officer. Civilian 2 stated that she did not observe the officer discharge his firearm and did not hear the gunshot because of the “commotion” around her.

Civilian 2 next observed the Hispanic male sitting up on the ground inside the playground and the second officer with him, and Civilian 2 did not observe any injuries to the Hispanic male. Civilian 2 did not observe the Hispanic male falling to the ground. The first officer picked up an object from the ground on the west side of the fence and showed it to the crowd around him. Civilian 2 did not remember where the officer was located when he picked up the object and believed that he

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also jumped the fence. Civilian 2 approached the playground to check on her grandchildren and was about five to six feet away from the officer. Civilian 2 observed that the object appeared to her like a black .22 caliber handgun. Civilian 2 stated that she is familiar with a .22 handgun and described it as a small firearm that fits in her palm. Civilian 2's daughter, Civilian 3, later told her that the officer had shot the Hispanic male. Civilian 3 also told Civilian 2 that she observed that one Hispanic male had dropped the gun and the "skinny" Hispanic male had picked it up. Civilian 2 also observed a second Hispanic male, who was "heavy set" and shaved bald, video recording the scene after the shooting. Assisting units arrived, taped off the crime scene and helped Civilian 2 and her party move back the grills. Civilian 2 observed an ambulance arriving but did not observe the Hispanic male being placed inside the ambulance. Civilian 2 stated that she did not provide a statement to the detectives, because she was "drunk" after drinking a "fifth of vodka;" however, Civilian 2 added that she had been sober enough to cook and check on her surroundings. Civilian 2 stated that the following day she thought about the incident and said that the officers did not "deserve to go down for something stupid." As a result, Civilian 2 contacted CAP who then brought her in touch with the detectives for the case. Civilian 2 stated that she made the same statement to the detectives as she did to COPA. (Att. #106)

In a **statement to COPA** on 18 October 2017, the **witness, Paramedic B**, stated that he vaguely recalled the incident. Paramedic B reviewed the ambulance run sheet and recalled that the incident was about a gunshot wound to the back of the head. Paramedic B stated that he encountered Chicago Police officers who were with the patient. Paramedic B could not recognize Subject 1 when presented with a photograph. Paramedic B did not recall what treatment was provided to Subject 1. Moreover, Paramedic B did not recall if Subject 1 said anything about what happened to him. Paramedic B stated that he had transported "quite a few" gunshot victims since the date of the above incident. Paramedic B did not recall where he and his partner transported Subject 1. Paramedic B stated that he did not write the run sheet; Paramedic B explained that the paramedic in charge completes the run sheet. Paramedic B did not recall who was the paramedic in charge on the above date. (Att. #'s 113-117)

In a **statement to COPA** on 13 December 2017, **Subject 1**, stated that he and his fiancée, Civilian 1, were sitting on a bench in Chicago Park A, drinking Hennessy cognac and smoking marijuana. Subject 1 described himself as "heavily intoxicated." Subject 1 and Civilian 1 had been at the park for a few hours and observed a group of about thirty African Americans set up a picnic nearby. When it became night time, four black males from the picnic approached Subject 1 and Civilian 1. Subject 1 stated that he had never seen the four black males before. Subject 1 stated that he and his fiancée were the only Hispanics in the park. One of the black males asked them, "What are you doing in the park?" and told them they should not be there. Subject 1 offered the black males some Hennessy and the situation calmed down. Subject 1 observed an unmarked police "truck" approach from 56th Street. The police vehicle was parked for about five to ten minutes before the officers exited. Subject 1 stated that he did not think that the officers shone their vehicle spotlight on his group. Two male officers, one black and one Hispanic, in civilian dress exited the police vehicle and approached Subject 1's group. Subject 1 stated that he had never seen the two officers before. As the officers walked northbound, Subject 1 turned his back to the officers. Subject 1 stated that he was thinking about running away because he was on parole for DUI and had spent the day drinking alcohol and smoking marijuana. Subject 1 stated that his instinct was not to get caught with anything and admitted that he had marijuana in his possession. Subject 1 was standing by the swimming pool fence and Civilian 1 stood next to him. The four

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black males then began to run northbound. Subject 1 did not know why the black males ran. When the black males were within two or three feet from him, a dark-colored handgun fell to the ground a few feet north of Subject 1. Subject 1 assumed that the handgun fell from one of the four black males.

Once he saw the handgun, Subject 1 decided to run. Subject 1 stated that he did not pick up the handgun. He added that he also did not pick up an orange-colored cloth from the ground. When the officers were “a few feet” away, Subject 1 ran westbound to a fence which was approximately ten to fifteen feet away. Subject 1 grabbed the fence with both hands and jumped on top of it. Subject 1 could not recall if the officers said anything to him and stated that neither officer had grabbed him. Subject 1 stated that he was “halfway over the fence” and may have had one leg on the fence, when he heard a “boom” and fell forward to the ground. Subject 1 landed next to the fence. Subject 1 stated that he never turned back when he was on the fence and never turned toward the officers with his right arm extended. Subject 1 stated that he did not observe which officer shot him. Subject 1 lost consciousness and then heard Civilian 1’s voice asking, “Why you shoot him? He didn’t do nothing to you.” Subject 1 “woke up” and observed a Hispanic officer on the east side of the fence point his firearm at Civilian 1. Subject 1 became angry and tried to get up, but could not get up. Officer B told him to stay down because he had been shot in the head. Subject 1 heard Officer B scream, “What the fuck?” Subject 1 then heard the other officer state, “He pointed the gun at me.” Subject 1 did not remember how Civilian 1 reacted to the officer’s answer. Subject 1 told Civilian 1 to start recording with her cell phone, but did not know whether she did. Subject 1 observed Civilian 1 being placed inside a squad car. Subject 1 asked why he had been shot but the officers would not tell him. When the ambulance arrived, Subject 1 was placed inside. Subject 1 stated that he did not tell anything to the paramedics about the gun. The ambulance transported him to Mt. Sinai, where “investigators” attempted to talk to him. Subject 1 told them that he had been shot and had not done anything. Subject 1 could not remember whether any detectives recorded his statement and was not certain if he told them that he had picked up the gun. Subject 1 stated that he denied to the detectives that he pointed the gun. Subject 1 added that he was intoxicated and medicated so he was not in his “state of mind.” Subject 1 did not know what happened to the gun. (Att. #137)

POLICE OFFICER STATEMENTS

In a **statement to IPRA** on 21 August 2017, **witness Officer B #XXXXX**, provided his account of this event. Officer B stated that he and his partner, Officer A, were assigned to Beat XXXX and were conducting routine patrol as part of a tactical team. Officer B was in civilian dress with his duty belt and a vest with the word “police” emblazoned on the back and his star embroidered on the front. The officers were in a gray-colored Ford Explorer and Officer A was the driver. The vehicle was not equipped with in-car camera and the officers were not equipped with body-worn cameras. The officers were driving northbound on the XXXX block of XXXXXXXX and noticed a group of about eight male and female Hispanics on a bench at Chicago Park A. The group was positioned between the swimming pool and the playground. Officer B could see smoke and alcohol bottles on the ground. Officer A drove onto the park property, shone the spotlight for a couple of seconds and parked close to the benches. Some of the individuals looked in the officer’s direction. The officers exited their vehicle and walked northbound toward the group. Officer B stated that he and Officer A did not give any commands to the group at that

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time. Officer B stated that he and his partner planned on issuing some citations for drinking alcohol in the park and “running” names for warrants. Officer A walked a few feet ahead of Officer B. Officer B then heard a metallic object hit the pavement between the benches and the swimming pool. The officer was unable to tell who dropped the object because of the size of the group. Officer B looked in the direction of that sound and saw a black handgun on the pavement. Officer B stated that there was artificial light around the benches and the gun was visible on the pavement. A subject, now known as Subject 1, dropped a yellow towel or t-shirt next to the gun, bent down and picked up the towel and the gun. Officer B stated that he was not certain where Subject 1 came from to pick up the gun, because he was focused on the gun and not on any specific person. Officer B also was not certain whether the cloth fell on top of the gun. At a distance of about ten feet from Subject 1, Officer A then yelled, “He got a gun!” and ran toward Subject 1. Officer B was not sure whether his partner unholstered his firearm at this point. Subject 1 ran in a northwest direction with the gun in his right hand. Officer A closed the distance and yelled, “Drop the gun!” Officer A grabbed a hold of Subject 1’s shirt with his left hand, but Subject 1 continued to run and broke loose of the officer’s grasp. Subject 1 then jumped over a bench and ran westbound, followed closely by Officer A. Officer B began to run parallel to Subject 1 and his partner to their left, at a distance of about ten feet. Officer B heard Officer A continue to yell, “Drop the gun!”

Officer B reached the playground fence at the same time as Subject 1. Officer A was about an arm’s length behind Subject 1 as Subject 1 attempted to jump the fence. Officer B could not describe how Subject 1 tried to scale the fence, but stated that he could still see the gun in Subject 1’s hand. The officer then attempted to climb over the fence. Officer B stated that he broke his view of Subject 1’s gun when he tried to get over the fence; the officer was not certain for how long his view of the gun was interrupted. When he was almost over the fence, Officer B heard a gunshot and observed Officer A with his hand raised above his head. Subject 1 was on top of the fence and Officer B stated that he was not certain if Subject 1 was facing Officer A. Officer B stated that this was the first time during this incident that he had seen his partner’s firearm out of its holster; Officer B did not know when Officer A unholstered his firearm. Officer B stated that he did not see Officer A’s hand go up, but only saw it after he heard the shot. Upon inquiry, Officer B was not certain if he observed Subject 1 turn toward Officer A and stated that from his angle, he could not tell whether Subject 1 pointed the gun at Officer A.

Subject 1 made it over the fence and fell to the ground within five feet of the fence. Officer B ran toward him and handcuffed him. Officer B observed a graze wound on the top of Subject 1’s head. Officer A, who was still on the east side of the fence, told Officer B, “I got the gun.” Officer B observed Subject 1’s gun near the fence, but was not sure on which side. Officer B observed the crowd advancing toward the officers and Officer A picked it up and yelled, “Get back!” Officer B went over the radio to report the officer-involved shooting and request an ambulance. Officer B described Subject 1 as “a little shaken up” but calm. Subject 1 asked Officer B if the officers can forget about the incident and stated that unknown individuals told him to pick up the gun. Assisting units arrived on the scene and moved out the crowd. Officer B stated that the people having the picnic were unrelated to Subject 1’s group. When the ambulance arrived, Officer B escorted Subject 1 to the street. Officer B stayed inside the ambulance with Subject 1 until his supervisor, Sergeant A, arrived. Officer B stated that Subject 1 was talking inside the ambulance, but the officer could not recall what Subject 1 said. Officer B then spoke to his sergeant and an FOP representative at the scene. The officer was then transported to Area Central, where he spoke with his partner. Officer A told Officer B that Subject 1 turned toward him with the gun and then Officer

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A discharged his firearm. Officer A also told his partner that he handed Subject 1's gun, a .25 caliber semi-automatic, to Sergeant A. Officer B stated that he did not unholster his firearm during Subject 1's arrest; upon inquiry, the officer stated that he did not know why he never unholstered his firearm. (Att. #'s 38-40)

SERGEANT A

In a **statement to IPRA** on 05 September 2017, **witness Sergeant A #XXXX**, provided his account of this event. Sergeant A stated that he was the supervisor of Beat XXX Tactical Team working on a gang conflicts assignment. He was working with Officers D and E and was the rear passenger in an unmarked Ford Explorer. The sergeant heard over the OEMC dispatch about an officer-involved shooting. Sergeant A recognized Officers A's and B's voices reporting shots fired by the police and requesting an ambulance. Sergeant A and Officers D and E drove to Chicago Park A and parked the vehicle inside the park. The sergeant observed an ambulance and other officers on the scene. Sergeant A stated that he never observed Subject 1 on the scene, because Subject 1 was already inside the ambulance. The sergeant asked Officers A and B what happened. Officer A responded that he and Officer B approached some individuals who were drinking in the park and observed a firearm on the ground. The offender, now known Subject 1, picked up the firearm and a "short struggle" ensued. Subject 1 pointed the firearm at Officer A who then discharged his weapon one time. Officer B told the sergeant that he heard the shot and then placed Subject 1 into custody. Officer A also told the sergeant that he had picked up Subject 1's firearm because there were several individuals in the park, in addition to Subject 1's group, and a family gathering north of the playground. Officer A turned over Subject 1's firearm to the sergeant, who placed it inside his right front pants pocket. The sergeant kept the firearm for approximately two hours, when the firearm was recovered by an evidence technician. Sergeant A described the firearm as a small caliber, black in color, handgun. The sergeant added that the gun had already been cleared, its magazine had been released and there was no bullet in the chamber. Sergeant A placed the two officers in separate vehicles and assisted in securing the scene. (Att. #76)

OFFICER A

In a **statement to COPA** on 22 September 2017, **the involved member, Officer A #XXXXX** provided his account of this event. Officer A stated that as he and Officer B were driving northbound on XXXXXXXX, they observed a group of five of ten individuals hanging out by the benches in Chicago Park A. The group was mostly Hispanics and included a couple of black individuals; some were sitting on the benches and some were standing. Officer A explained that he was familiar with the location as a drug market set up by the Vice Lords gang. The police vehicle turned on the spotlight as it entered the park property and, as they drew closer, the officers observed open alcohol bottles on the sidewalk. The officers decided to exit their vehicle to investigate whether the individuals were drinking alcohol. Officer A observed one Hispanic male, now known as the subject, Subject 1, and one Hispanic female standing just south of the first bench by the fence and facing eastward. Officer A stated that the other members of the group remained seated. As the officers approached the group, Subject 1 and the Hispanic female began walking northbound. Officer A was approaching from a 45-degree angle and was about ten to fifteen feet away from Subject 1 when a gun fell on the sidewalk in front of Subject 1's feet. Officer A stated that the gun could have only fallen from either Subject 1 or the Hispanic female because they were

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closer to the swimming pool fence and the other members of the group were “on the benches, kind of far from them.”

Officer A yelled “Gun! Gun!” to alert his partner and ran toward the gun, ordering Subject 1 to stop. The officer described the gun as a small, black semi-automatic handgun. Subject 1 bent his knees and laid a yellow cloth, that he had in his hands, on top of the gun. Subject 1 then grabbed the cloth with the gun. Officer A ran up to Subject 1 and grabbed his T-shirt with his left hand and ordered him to stop. Subject 1 took a few steps northbound and then quickly turned westbound. Subject 1 jumped over the bench and the officer followed, not breaking hold of the T-shirt. Officer A stated that he was not able to control Subject 1, who continued to run. As he ran, Subject 1 brought both of his hands almost up to his chest and the officer could not see Subject 1’s hands. Officer A continued to order Subject 1 to drop the gun. Right before they reached the playground fence, Officer A unholstered his firearm and held it near his holster. Officer A stated that he unholstered his weapon because he thought that Subject 1 was going to stop and “maybe turn around.” As a result, the officer wanted to have his weapon “accessible.”

Subject 1 placed his left hand on the fence and positioned himself on top of the fence, where his head was about one foot above the officer’s head. Officer A did not know if Subject 1 placed his legs and knees on the fence and explained that he was focused on Subject 1’s upper body. Officer Subject 1 could not see Subject 1’s right hand and stated that he was concentrating on what Subject 1 was going to do with that hand. Officer A stated that he was positioned “a little bit angled towards the back left” of Subject 1; the officer explained that he was away from Subject 1’s firearm and considered it safer for himself. Subject 1 then turned his upper body to his right with his right arm not fully extended. Officer A then observed the gun in Subject 1’s right hand and the gun was pointed at the officer. The officer stated that the gun was no longer covered with the yellow cloth. Officer A released his grasp of Subject 1, took a step back and to his left, and discharged his firearm once at Subject 1. Officer A stated:

Page 50, Line 15:

Q: So, for the record, you’re showing that you raised your hand above your head?

A: That’s correct.

Q: And you pointed it downwards?

A: Downward.

Q: Why were you pointing it downwards?

A: Because the subject was up here, and just for safety purposes, I felt it was easier, it was safer to shoot downwards because we were at a park.

Subject 1 fell to the ground a “couple of feet” west of the fence; the firearm was a few inches inside the playground. Officer B ran from the south and handcuffed him; the officer also went over the air, called a “10-1” and requested an ambulance. Subject 1’s group approached the officers and Officer A ordered them to get back. Officer A stated that the group was yelling obscenities such as “Fuck, dude, why the fuck did you shoot my boy?” Because he did not feel that it was safe, Officer A picked up Subject 1’s firearm through the fence, placed it inside his left pants pocket and went over the fence. When Officer A joined his partner and Subject 1, Subject 1 told him in Spanish, “*Es de los morenos*,” which Officer A translated as “it’s the black guys,” apparently referring to the gun. B went over the air and called a “10-1” and requested an ambulance. When assisting units arrived, the crowd dispersed except for the Hispanic female that was with Subject

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1; Officer A later learned that the Hispanic female was arrested. Officer A cleared Subject 1's firearm and handed it to his supervisor, Sergeant A. Officer A was separated from his partner and spoke to a detective. (Att. #'s 84, 156)

Submitted:

Major Case Specialist

Supervising Investigator

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:

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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

This incident began when the two responding officers, Officers A and B observed a group of individuals who appeared to be drinking alcohol on park property. As the officers approached the group, both officers heard a metallic sound on the sidewalk and observed a handgun on the ground. Officer A ran to recover the gun and the subject, Subject 1, picked it up. Both officers stated that Subject 1 picked up the gun with a cloth and ran. Although Subject 1 denied in his

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statement to COPA that he picked up the gun, Subject 1 admitted to picking it up both on an electronically recorded interview by CPD detectives and in an unrecorded interview by COPA Investigator B at Hospital A. In addition, an independent witness, Civilian 2, stated that she observed Subject 1 bending down to pick up something, but she could not see what the object was. In her statement to COPA, Civilian 2 stated that after the shooting, Officer A picked up an object from the ground and showed it to the crowd; at that point, Civilian 2 recognized it as a black handgun. Finally, the fact that the cloth that Subject 1 used to cover the gun was recovered by the fence adds more credibility to the officers' accounts. Based on the preponderance of the evidence, it is more likely than not that Subject 1 picked up the handgun from the ground.

Subject 1 stated that once he reached the fence and began to climb over it, he never turned around toward the officers who were pursuing him. Civilian 1 also stated to COPA that Subject 1 never turned around; however, Civilian 1 told CPD detectives in her electronically-recorded interview that she had not observed the officer-involved shooting and had only heard the gunshot. The statements of Subject 1 and Civilian 1 are contradicted by Officer A and witness Civilian 2 who both stated that Subject 1 turned around toward Officer A.

Civilian 2, the independent witness, specifically stated, both in her statement to COPA and her electronically-recorded interview by CPD detectives, that she observed Subject 1 turn back toward Officer A with an unidentified object in his hand, and point that object at the officer. Officer A stated that Subject 1 turned to his right when he was on top of the fence and pointed the gun at the officer. In response, Officer A reasonably believed that Subject 1 was about to discharge the gun at him and, as a result, raised his hand and discharged his firearm at Subject 1.

Because Officer A's belief that Subject 1 presented a danger to himself and to others in the area was objectively reasonable under the totality of the circumstances, Officer A was entitled to use deadly force against Subject 1. Therefore, COPA finds that an officer with similar training and experience as Officer A would reasonably believe that Subject 1 posed an immediate threat to his or her safety. The use of deadly force by Officer A was objectively reasonable and within policy as outlined by the Use of Force Model; the Illinois State statute; and the Chicago Police Department's General Order 03-02-03, III.

Approved:

Deputy Chief
COPA