

# **EXHIBIT K**

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ESTATE OF PIERE LOURY, )  
Deceased, by Tambrasha Hudson, )  
Administrator, )  
Plaintiff, ) No. 16 C 04452  
vs. )  
CITY OF CHICAGO, Chicago Police Officers )  
Sean Hitz (Star No. 6272) and )  
Jeff J. Riordan (Star No. 7716), )  
Defendants. ) Honorable Amy J. St. Eve

**EXPERT REPORT OF JEFFREY J. NOBLE**

1. My name is Jeffrey J. Noble, and I make this report at the request of defendants' counsel.
2. I was a police officer in the City of Irvine for 28 years rising to the position of Deputy Chief of Police prior to my retirement. I served as an interim Deputy Chief of Police at the Westminster Police Department for nine months.
  - a. I was a police officer for 28 years and retired in July 2012 as the Deputy Chief of Police with the Irvine Police Department, located in southern California. As a Deputy Chief, I was directly responsible for all police operations including Patrol, Traffic, Criminal Investigations, Emergency Management, Crime Prevention, DARE, K9s, Training, and SWAT. The City of Irvine encompasses over 70 square miles with a population of over 218,000. I served in a wide range of assignments as an Officer, Senior Officer, Sergeant, Lieutenant, Commander and Deputy Chief, including Patrol, Traffic, Detective, SWAT, Training, Internal Affairs, Emergency Management and Crime Prevention. The Irvine Police Department had over 200 police officers and over 100 civilian employees during my employment with the department.
  - b. In April 2014, I was hired by the Westminster, California Police Department as an interim Deputy Chief of Police. My employment with the Westminster Police Department was by means of a temporary contract, and I was asked to review the department's Internal Affairs unit; department policies relating to Internal Affairs investigations, discipline and police officer conduct; conduct department audits and

inspections; and act as a liaison with a civilian oversight monitor who was hired during the same period. My employment was at the request of the Chief of Police, was ratified by the City Counsel and was sought due to the arrest of a police Officer for an off-duty criminal sexual assault, the arrest of an on-duty Officer for extortion and a lawsuit filed by three Latino officers alleging discrimination and retaliation. I concluded this interim position in January 2015. The Westminster Police Department has 87 police officers and 40 civilian employees during my temporary contracted employment.

- c. As a police supervisor and manager, I have extensive experience conducting internal administrative investigations on a wide range of issues including use of force, vehicle pursuits, officer misconduct, criminal interrogations and interviews, harassment and sexual assaults.
- 4. I have a Juris Doctor degree, with honors, from Western State University College of Law and I am admitted to practice law in the State of California. I have a Bachelor's degree in Criminal Justice with an emphasis on Administration from California State University at Long Beach.
- 5. As a police consultant and expert witness, I have extensive experience on matters involving police investigative procedures, misconduct and corruption. For example:
  - a. In 2014, I was part of a Carnegie Institute of Peace Think Tank for addressing police use of force in developing countries.
  - b. I have consulted with other police organizations on a wide range of police practices, procedures, including criminal and administrative investigations. For instance, I was retained in 2004 as an expert to review and evaluate the internal investigation conducted by the San Francisco, California, Office of Community Complaints of the case widely known as "Fajitagate" involving the indictment of seven command staff members and three officers of the San Francisco Police Department. In 2007 and again in 2009, I was retained by the City of Austin, Texas to review the police department's internal homicide and Internal Affairs investigation of two Officer involved fatal shootings.
  - c. I have been retained as both a defense and a plaintiff's expert in over 140 cases and have testified as an expert in state court in California, Washington, Tennessee, Connecticut, Minnesota and New Mexico and in federal court in Illinois, Tennessee, Georgia, South Carolina and California. I have prepared expert reports for cases in the states of California, Washington, Pennsylvania, Georgia, Illinois, Tennessee, Idaho, Arkansas, Texas, Colorado, New York, Oklahoma, Connecticut, South Carolina, Florida, New Mexico, Minnesota, Ohio, Kentucky, Louisiana and Missouri.

- d. I have been retained in criminal cases involving allegations of criminal uses of force by police officers in the states of New Mexico, Delaware, Minnesota, Pennsylvania and Florida.
- f. I served as an independent policy advisor to the Large City Internal Affairs Project, which was funded by the United States Department of Justice. This group consists of the 12 largest police agencies in the United States as well as a select group of independent policy advisors and academics. The project was an effort to develop national best practices in internal investigations for police agencies. I was the chair of a sub-committee whose efforts were focused on the investigation of allegations of officer misconduct. Because of this project the COPS Office published a document entitled, "Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice."
- g. I have given presentations at the International Association of Chiefs of Police conference in 2004, 2009, 2012, and 2014; the national COPS conference on Internal Affairs issues and the Academy of Criminal Justice Sciences annual meeting on tactical reckless decision making in 2009; the American Psychological Association annual conference in 2013; and National Tactical Officers' Association annual conference in 2004.
- h. In 2013, I gave a presentation in Mexico at the request of the Mexican government on preventing corruption in police institutions.
- i. I have published 21 articles on policing which discussed the subject matters of: Internal Affairs, personnel issues, pursuits, use of force issues and investigative procedures. Those articles are listed in my attached resume.
- j. I have published two chapters for policing textbooks on tactical recklessness and the code of silence.
- k. I have co-authored, along with Geoffrey Alpert, Ph.D., a textbook on police Internal Affairs investigations titled, "Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight."
- l. As evidence that the opinions in our book are accepted by other experts of police administrative investigations, my book was cited extensively in the COPS 2009 publication, "Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practice Guide for Local Law Enforcement."

6. My experience, training and background are more fully described in my attached resume.

7. My areas of expertise in policing include, but are not limited to: police use of force; pursuits; police administration; training; police operations; criminal investigations; interviews and interrogations; civil rights violations and investigations;

internal/administrative investigations; criminal investigations; police discipline; citizen complaints; and police policies and procedures.

8. I reviewed the following material in making my opinions:

- Expert Report of Roger Clark
- Second Amended Complaint
- First Supplemental Plaintiff's Interrogatories
- Plaintiff's Responses to Hitz First Request for Production
- Plaintiff's Rule 26 Disclosure
- Individual Defendants' Fifth Supplemental Disclosure
- IPRA File 1080064 (IPRA 000003-554)
- Photographs (City 0001-109)
- Detective Tedeschi Report (City 2384-2390)
- Defendant Hitz's Answers to Interrogatories
- Department of Justice Report on CPD
- The City's Agreement in Principle with DOJ
- The Police Accountability Task Force's Final Report
- McGuire Woods Audit of IPRA Shooting Investigations
- Safer Report
- Advisory Letter from Former IPRA Chief Administrator Sharon Fairly
- Opinion Denying Motion to Vacate the Ruling in Obrycka
- City's Office of Inspector General's Report on IPRA
- City's Response to the Inspector General's Report
- IPRA's Response to the Inspector General's Report
- Audio Recording of Defendant Hitz's IPRA Interview
- Deposition of Sean Hitz
- Expert Report of Ronald Scott
- Deposition of Karen Conway
- Deposition of Kevin Duffin
- Affidavit of Kevin Duffin
- Deposition of Plaintiff Tambrasha Hudson
- Deposition of Josh Hunt
- Deposition of Robert Klimas
- Deposition of Trak Silapaduriyang
- City's Answer to Second Amended Complaint
- Individual Defendants' Answer to Second Amended Complaint
- Deposition of Andrea Hyfantis
- Interrogatories to City, Hitz, and Riordan
- Defendant Hitz's Answers to Interrogatories
- Defendant Riordan Answers to Interrogatories
- Videos
  - Slow Motion Exiting Vehicle
  - Alley Portions

- Chicago Tribune
- Audio Portions
- Expert Report of Jeffrey Noble in *Lane*
- Expert Report of Roger Clark in *Lane*
- Roger Clark Deposition in *Lane*
- Roger Clark Deposition
- Scene Visit Conducted on January 17, 2018
- Hudson 16 c 4452 – Resigned Under Investigation 2011-2016
- Hudson 16 c 4452 – Rule 14, 21 and 22 Violations 2011-2016
- Hudson 16 c 4452 – SPAR Categories 2011-2016
- Hudson 16 c 4452 – SPAR Categories Totals 2011-2016
- Training Records – Hitz
- Deposition of Ronald Scott
- Transcribed Statement of Hitz (IPRA 001146-59)
- Transcribed Statement of Riordan
- IPRA Report (IPRA 001303-31)
- Videos (City 002291, 2293, 2295, 2297-300, 2324, and 2315)
- Disciplinary Statistic of CPD regarding Reprimands, Suspension, and Terminations (City 003175)
- Resigned Under Investigation (City 002879-2891)
- Rule 14, 21 and 22 Violations (City 002892-2898)
- SPAR Totals (003172-3174)
- Detailed SPAR Report 2011-2016 (City 002899-3171)

9. At this point in the development of this case, I do not know whether I will be using any demonstrative aids during my testimony. Should I decide to use any such aid, I will ensure that they are made available for review, if requested, prior to their use.

10. My professional charges for this litigation work is an hourly fee of \$295 plus expenses including all travel time. My fees for deposition and trial testimony are \$2,950 per calendar day or any portion thereof, plus travel time and expenses.

11. The opinions that follow are made within a reasonable degree of certainty within the field of police practices based on over 30 years of professional law enforcement experience and scholarship.

**The Chicago Police Department Has Reasonable Policies Consistent with Generally Accepted Police Practices Regarding Police Officer Ethics, Untruthfulness, and Mandatory Reporting of Allegations of Fellow Officer Misconduct During the Period Between 2011-2016**

12. The Chicago Police Department enacted reasonable policies and procedures between 2009-2014 designed to establish consistent work standards and to regulate the behavior of its employees. Police departments develop policies and procedures to guide their employees' actions and to prevent employee misconduct by articulating the types of behaviors that are

objectionable and to communicate that there are consequences for employees who fail to conform their behavior to department standards. Reasonable policies and procedures are the foundation for the prevention of employee misconduct and specifically policies on truthfulness and mandatory reporting are the cornerstone policies for the prevention of the Code of Silence.

13. In the years prior to 2016, the Chicago Police Department developed and implemented reasonable policies to control the conduct of its officers and for the intervention of officers who may be displaying problematic behavior that does not reach the level of disciplinary action. Included in those policies are:

- a. The CPD Rules and Regulations define the standards of conduct that are expected for a CPD member. Those standards of conduct include the Law Enforcement Code of Ethics which is cited by police departments across the country as guiding principles for officer ethics and behavior.<sup>1</sup>
- b. In addition, the Rules and Regulations contain specific rules regarding officer conduct. Among those rules are:
  - 1.) Rule 14 – Prohibits members from making a false report, written or oral. It is this rule that mandates officer truthfulness.
  - 2.) Rule 21 - Failure to report promptly to the Department any information
  - 3.) Rule 22 – Failure to report to the Department any violation of Rules or Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department. Mandatory reporting policies are one method to address the code of silence. These policies make clear that the control of misconduct by employees is not just the responsibility of supervisors and managers, rather it is a shared responsibility among all officers, supervisors and managers. A policy of this manner, removes the stigma from reporting misconduct by making it an affirmative obligation of all employees.<sup>2</sup>
- c. General Order 93-03 – Complaint and Disciplinary Procedures. This policy outlines the department's complaint and disciplinary procedures and includes: the department member's bill of rights; employee specific responsibilities (complaint acceptance, OPS, BIA, IPRA); conduct of the investigation; reporting and review procedures; special situations; and summary punishment.

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<sup>1</sup> FCRL 011370-1.

<sup>2</sup> See e.g., Walker, Samuel, "The New World of Police Accountability" (2005) at 65; Rothwell, Gary R. and J. Norman Baldwin, "Whistle-Blowing and the Code of Silence in Police Agencies: Police and Structural Predictors," *Crime & Delinquency* (2007) 53:605 at 609; and IACP National Law Enforcement Policy Center, "Retaliatory Conduct by Employees: Concepts and Issues Paper" (January 2012).

- d. General Order 05-02 - Behavioral Intervention System (BIS). The system is not a disciplinary program. Rather, the system is designed to identify department members who may be in need of department assistance due to personal problems that may be impacting their work. The program offers counseling resources to the affected employee. The policy outlines the criteria for identifying members to be placed in the program, the responsibilities of management, BIA and the employee.
- e. General Order 05-04 - Personnel Concerns Program. The Personnel Concerns program is designed to provide an Individualized Performance Plan (IPP) for employees who have been identified as having difficulties that are affecting the members' competency. Like BIS, this program is also intended to be non-disciplinary, rather it is for problems that if not addressed may lead to severe disciplinary measures or separation from the department. This policy outlines the criteria for identifying members to be placed in the program, the responsibilities of management, BIA and the employee.
- f. Special Order S08-01-08 – Non-disciplinary Intervention Program. The non-disciplinary intervention program was established in April 2004. The program is designed to provide a more effective means of addressing incidents of verbal abuse and other program-eligible conduct. This program is non-disciplinary in nature and makes use of enhanced member awareness of the Department's policy concerning interactions with the community, counseling, skills development and training, and other non-disciplinary intervention actions. There is evidence that this program was indeed active as evidenced by the spreadsheet list of interventions in the relevant time frame.<sup>3</sup>
- g. These are the types of policies and programs that are recommended in the policing literature, the policies are reasonable, and there is no evidence that they are just a façade. Rather the evidence shows that these policies were and are followed and enforced.

**The Administrative Investigations into Allegations of Officer Misconduct Conducted by the City of Chicago's Office of Professional Standards, IPRA, and the Chicago Police Department Internal Affairs Division were Reasonable**

14. I have reviewed over 2,000 BIA, OPS and IPRA investigations in the matters of Arias<sup>4</sup> (158 CRs), Craft<sup>5</sup> (160 CRs), Gilfand<sup>6</sup> (94 CRs), Johnson<sup>7</sup> (212 CRs), Obrycka<sup>8</sup> (193 CRs),

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<sup>3</sup> RFC 120734-9.

<sup>4</sup> 05 c 5940.

<sup>5</sup> 06 c 1451.

<sup>6</sup> 07 c 2566.

<sup>7</sup> 05 c 6545.

<sup>8</sup> 07 c 2372.

Ramirez<sup>9</sup> (151 CRs), Moore<sup>10</sup> (31 CRs), Adams<sup>11</sup> (165 CRs), Clark<sup>12</sup> (171), Fuery<sup>13</sup> (310), Giles<sup>14</sup> (118) Padilla<sup>15</sup> (318 CRs) and Lane<sup>16</sup> (146 CRs). I have also reviewed over 150 officer-involved shooting investigations that were provided to the Department of Justice as part of DOJs review of the CPD. Based on these reviews, I am of the opinion that the Bureau of Internal Affairs (BIA), Office of Professional Standards (OPS) and Independent Police Review Authority (IPRA) have conducted their administrative investigations in a reasonable manner.

15. In my opinion, between 2011 - 2016, the Chicago Police Department took reasonable and appropriate steps to identify, investigate and discipline officers who engaged in misconduct. Specifically:
  - a. There is no evidence that the Chicago Police Department failed to accept or document complaints of officer misconduct. Indeed, the evidence is that the Chicago Police Department has an open complaint process and that all complaints are accepted.
  - b. The Chicago Police Department assigned tracking numbers to all complaints to ensure that all complaints are investigated and that the allegations may be attributed to the officer whom the complaint was made against.
  - c. The policy of the Chicago Police Department mandated that OPS (which was reorganized as the Independent Police Review Authority (“IPRA”) and is now known as the “Civilian Office of Police Accountability (“COPA”) receive notification of all complaints of officer use of force and there is no evidence that this policy has been ignored.
  - d. The creation of the OPS, IPRA and now COPA, represent significant attempts to infuse administrative investigations with unique neutrality and independence. These entities are comprised of civilian investigators tasked with investigating all allegations of excessive force against sworn members of the force, including all off-duty officer use of force investigations. This represents a dramatic effort to overcome the criticism commonly raised that police officers are not capable of investigating themselves.
  - e. OPS, IPRA and now COPA represent a conscious effort by policymakers to avoid many of the concerns identified in other departments’ administrative investigations

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<sup>9</sup> 05 c 317.

<sup>10</sup> 07 c 5908.

<sup>11</sup> 06 c 4856.

<sup>12</sup> 10 cv 1803.

<sup>13</sup> 07 c 5428.

<sup>14</sup> 12 cv 6746.

<sup>15</sup> 06 c 5462.

<sup>16</sup> 1:15 cv 01920.

and includes a career path for investigative personnel who are members of this unique unit.

- f. OPS, IPRA and now COPA have been unique in policing in that very few other agencies maintain such a civilian staffed and civilian led independent organization designed to investigate the most serious allegations of misconduct against the police.
- g. in 2007, IPRA represented a further development to CPD's administrative investigatory system. Unlike its predecessor OPS, IPRA did not report to the Superintendent. Rather, it reported directly to the City Council, which further evidences the independence of IPRA.

16. The investigations into allegations of officer misconduct by BIA, OPS and IPRA have been reasonable.

- a. BIA, OPS and IPRA conducted interviews and interrogations of witnesses and subject officers. The complainants signed these statements. The signature of the complainant is an important investigative step as it shows that the complaint has been properly recorded and that the intake officer has not minimized or ignored the alleged conduct.
- b. BIA, OPS and IPRA conducted area canvasses in an attempt to locate additional witnesses.
- c. BIA, OPS and IPRA took photographic evidence when appropriate, particularly to document the injuries of a complainant.
- d. BIA, OPS and IPRA collected department reports regarding an incident including: crime reports; dispatch records; and staffing reports. These reports are included with the OPS investigative report. The inclusion of this material allows BIA, OPS, and IPRA and department supervision to review the reports as they are reviewing the BIA, OPS, and IPRA report and allows a level of oversight in that the reports are available for later review for matters like this.
- e. BIA, OPS and IPRA seized evidence when appropriate.
- f. BIA, OPS and IPRA directed evidence to be examined by experts when appropriate. For example, the submissions of weapons for potential trace evidence that would tend support or discredit an officer's testimony.
- g. BIA, OPS and IPRA collected and transcribe dispatch communication tapes when appropriate.
- h. BIA, OPS and IPRA collected medical records of complainants and subject officers when appropriate.

- i. BIA, OPS and IPRA documented their investigative steps through written memorandums that are submitted to their supervisor as the investigation proceeds and through the investigators' case notes that are retained as part of the official record.
- j. BIA, OPS and IPRA prepared reports that documented their investigative efforts and their findings.
- k. BIA, OPS and IPRA were subject to a reasonable level of supervisory oversight within their own office in that supervisors review and approve investigator's reports.
- l. BIA, OPS and IPRA made reasonable findings based on their investigation.
- m. BIA, OPS and IPRA made reasonable penalty recommendations based on their findings and the officer's prior department history.
- n. BIA, OPS, IPRA and the Chicago Police Department maintained records of their investigations, the findings, and any disciplinary action.
- o. There is no evidence of bias, collusion, or other improper motive by any BIA, OPS or IPRA investigator, supervisor, or manager.
- p. At the conclusion of the investigation, BIA, OPS, or IPRA sent the complainant a letter alerting them to the findings of their investigation. This is important as it allows community members to know that their complaint was investigated and that if they have concerns they may contact any one of a number of stakeholders in the process that includes the investigating agency; state or federal officials; their attorney; their local, state or federally elected officials; or a special interest group to seek further action.
- q. Unlike most police agencies across the nation, the City of Chicago has developed meaningful roles for civilians in the administrative investigation and disciplinary process. All use of force complaints are investigated by civilians. The police department reviews the investigation and all appeals are heard by the civilian staffed Police Board.
- r. BIA contains several sections to effectively conduct internal investigations. Those sections include: General; Confidential; Special Investigations; Records; Advocate; and Administrative.
  - 1.) General Investigations forms the core of the investigatory section and this section handles all investigations except for those assigned to Confidential or Special.

- 2.) The Confidential Investigations Section (CIS) is a covert group of detectives and supervisors that conducts undercover stings, surveillances and investigations of CPD officers suspected of wrongdoing. The section is staffed by 5- 6 teams each led by a sergeant and each composed of 3 - 6 officers. CIS takes its role so seriously that its detectives report to an undisclosed location for operations to avoid their identification by other CPD officers and they do not discuss their cases with detectives assigned to general investigations within BIA to prevent the possibility of their investigative efforts from being leaked to other CPD officers.
- 3.) The Special Investigations Section conducts all investigations if the accused is of the rank of lieutenant or above or it is an Equal Employment Opportunity (EEO) complaint.

17. The Chicago Police Department has been actively involved in the investigation and resolution of allegations of misconduct against its officers.

- a. Supervisors and managers are provided the opportunity to review internal affairs reports through the Command Channel review process (Special Order S08-01-02). In that process, the accused member's chain of command reviews the investigative report and may either agree with the findings, may request additional investigation or, if they disagree with the findings, they may submit a report containing justifications supporting any alternative conclusions that they may have reached.
- b. This review allows supervisors and managers to become aware of allegations against an officer in their command and allows them to provide additional supervision, training or to recommend changes in policies or procedures if appropriate.
- c. The Chicago Police Department imposes discipline based on the reports prepared by the chain-of-command, BIA, OPS and IPRA.
- d. The Chicago Police Department published the overall number of complaints received by the department on an annual basis, the findings and a summary of recommended disciplinary actions taken by the department.

18. It is my opinion that the overwhelming number of administrative investigations in every matter that I have reviewed for the City of Chicago conducted by the CPD, BIA, OPS, and IPRA are reasonable and consistent with generally accepted police practices.

**There is No Evidence That the Chicago Police Department in Some Systemic Way Has Failed to Discipline Officers Who Engage in Misconduct**

19. The Chicago Police Department has imposed disciplinary actions to correct employee behavior. The Chicago Police Department imposed disciplinary actions in sustained cases

between 2011 and 2016 by issuing 458 reprimands; 973 suspensions; and terminated 48 employees.<sup>17</sup>

20. Moreover, and perhaps most significantly, there is strong evidence that the supervisors and managers of the Chicago Police Department have taken their roles seriously and it is directly through their day-to-day efforts that most disciplinary actions are imposed. CPD supervisors and managers, without the aid of BIA or IPRA conducted between 2011 and 2016, 16,905 Summary Punishment Action Requests (SPARs)<sup>18</sup> ranging from a letter of reprimand to a three-day suspension were issued by the department. This level of disciplinary actions reveals that misconduct has not been tolerated within the Chicago Police Department, that the department's supervision and management has been actively engaged in their responsibilities, that they have been willing and able to take affirmative steps to correct poor or improper behavior and their actions have sent a clear message to all employees that misconduct is not tolerated.
  - a. SPARs are disciplinary actions that do not require a CR and do not involve a citizen complaint. These disciplinary actions are the easiest for supervisors and managers to ignore if there were a code of silence because there is no public outcry and no formal complaint that may be tracked or questioned by other supervisors or managers. Instead, these are violations that are all identified by supervisors and managers and it is the supervisors and managers who mete out these disciplinary actions that are up to a three-day suspension. Supervisors and managers have issued on average over 2,800 SPARs every year. If there were a widespread or pervasive code of silence or if supervisors turned a blind eye to the misconduct of their officers, one would expect that almost no SPARs would be issued.
  - b. One would expect that close relationships would exist between supervisors and the employees whom they work with every day and that these types of relationships would tempt supervisors to turn a blind eye especially to minor misconduct. Although these temptations may exist in policing, like any other organization, the numbers of SPARs show that supervisors and managers are able to overcome personal relationships with their subordinates and take appropriate disciplinary measures where appropriate.
  - c. The SPAR is a disciplinary action and may range from a letter of reprimand to a three-day suspension. The FOP contract prohibits any appeal of these actions until after the employee has received three SPARs. The fourth SPAR within a twelve-month period and any subsequent SPARs may be appealed.
  - d. It is also important to understand that a suspension does not merely entail some type of indication in the employee's personnel file. A suspension is a significant financial penalty that is placed on an officer. A suspension of a single day of work represents 20% lost wages for a week's work. Supervisors and managers are very aware of the financial burdens placed on employees when a suspension is part of

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<sup>17</sup> City 003175.

<sup>18</sup> City 003172-3174.

discipline and that employees rely on their compensation to pay rent or a mortgage, buy food and deal with the other economic essentials of life. Although these financial burdens are understood, supervisors and managers have still been willing to impose these disciplinary actions, knowing that after the employee's temporary absence that the employee will return to the workplace, in an attempt to correct poor behavior.

21. 264 employees resigned under investigation between 2011 and 2016.<sup>19</sup> These resignations evidence the fact that employees know that they will be terminated for serious misconduct and in order to avoid termination they resign while under investigation. Moreover, the status "resignation while under investigation" is not applied to anyone who may have an outstanding internal investigation at the time of their separation which may inflate this type of statistic, but it is only applied when the Superintendent believes there is a likelihood that the investigation will result in a sustained finding accompanied by a recommendation for a substantial disciplinary penalty, or if there is a possibility that the investigation may result in the decertification of the person's peace officer status.
22. There were 36 employees who were disciplined for violations of Rule 14, Rule 21 or Rule 22 between 2011 and 2016. 10 of those employees resigned while under investigation and an additional 7 were terminated from their employment,<sup>20</sup> indicating that the CPD does indeed, investigate and sustain allegations against employees who are untruthful or who fail to report misconduct.

**The City of Chicago Further Enhanced Its Abilities to Conduct the Most Serious of Administrative Investigations When it Formed the Independent Police Review Authority (IPRA) in 2007 and the Civilian Office of Police Accountability in 2016**

23. In 2007, in an effort to further improve investigations into allegations of police misconduct, the Independent Police Review Authority (IPRA) was created by the City Council. Headed by a civilian Chief Administrator and staffed entirely with civilian investigators, IPRA is an independent agency of the City of Chicago, separate from the Chicago Police Department. IPRA replaced the former Office of Professional Standards (OPS).
  - a. OPS was originally created as a conscious effort to address many of the concerns identified in other police department's administrative investigations, namely the ability of a police department to investigate its own members, and IPRA and COPA are continuing with that effort.
  - b. OPS, IPRA and now COPA are staffed with civilian investigators tasked with investigating all allegations of excessive force against sworn members of the force, including all off-duty officer use of force investigations. This represents a dramatic effort to overcome the criticism commonly raised that police officers are not capable of investigating themselves.

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<sup>19</sup> City 002879-2891.

<sup>20</sup> City 002892-2898.

- c. OPS, IPRA and now COPA are unique in policing in that very few other agencies maintain such a civilian-staffed and civilian-led independent organization designed to investigate the most serious allegations of misconduct against the police.
- 24. IPRA was created with the enactment of an ordinance (Chapter 2-57) that was specifically intended to provide IPRA with greater independence and power than OPS had.
  - a. The Chief Administrator of IPRA is appointed by the Mayor, instead of the police superintendent as occurred with OPS, subject to approval by the City Council. The Chief Administrator is responsible for the general management and control of the Independent Police Review Authority and has full and complete authority to administer the office in a manner consistent with the ordinances of the city, the laws of the state, and the rules and regulations of the police board. This is a significant change from OPS in that the Chief Administrator no longer reports to the Police Superintendent, a change that was designed to increase the independence of IPRA from the police department.
  - b. The ordinance grants the following specific powers to the Chief Administrator: (Many of these powers were not delegated to the Chief Administrator of OPS.)
    - 1.) To receive and register all complaints filed against members of the department;
    - 2.) To conduct investigations into complaints against members of the department concerning domestic violence, excessive force, coercion, and verbal abuse;
    - 3.) To conduct investigations into all cases in which a department member discharges his or her firearm, stun gun, or taser in a manner which potentially could strike an individual, even if no allegation of misconduct is made;
    - 4.) To conduct investigations into cases where the death of a person or an injury sustained by a person occurs while in police custody or where an extraordinary or unusual occurrence occurs in lockup facilities, even when no allegation of misconduct is made;
    - 5.) To review all cases settled by the Department of Law in which a complaint register was filed against a member of the department, and if, in the opinion of the chief administrator, further investigation is warranted, to conduct such investigation;
    - 6.) To forward all other complaints filed against members of the department to the department's internal affairs division;

- 7.) To conduct investigations in a manner consistent with Article IV of Chapter 2-84, the rules and regulations established by the police board, and all department operating procedures, general orders, collective bargaining agreements, and other applicable laws and regulations;
- 8.) To make recommendations to the Superintendent concerning the appropriate disciplinary action against members of the department found to be in violation of department rules and regulations;
- 9.) To make recommendations to the Superintendent, the Police Board, and the Chairman of the City Council Committee on Police and Fire concerning revisions in policy and operating procedures to increase the efficiency of the department;
- 10.) To request information related to an investigation from any employee or officer of the city;
- 11.) To issue subpoenas to compel the attendance of witnesses for purposes of examination and the production of documents and other items for inspection and/or duplication. Issuance of subpoenas shall be subject to the restrictions contained in Section 2-57-050;
- 12.) To address police personnel and community groups on regulations and operations of the Independent Police Review Authority; and
- 13.) To promulgate rules, regulations and procedures for the conduct of the Independent Police Review Authority's investigations consistent with the requirements of collective bargaining agreements, due process of law and equal protection under the law.

- c. The ordinance grants the ability to the Chief Administrator, or his or her designee, the ability to issue subpoenas to secure both the attendance and testimony of witnesses and the production of relevant information. Few, if any, other police oversight agencies hold this power.
- d. The ordinance requires, as a condition of employment, that all City employees, departments and agencies cooperate with IPRA or they may be subject to discharge.
- e. There is a provision that prohibits retaliation against anyone who may complain, cooperate or assist the Chief Administrator with the performance of his or her office. If found to violate this clause, a person may face a minimum fine of \$5,000 and not more than \$10,000 for each violation. Moreover, there is a provision that prohibits obstructing or interfering with an IPRA investigation.

- f. In order to increase transparency, all final summary reports shall be open to the public, to the extent allowed by law, and IPRA is required to produce quarterly reports documenting its efforts.
- g. The stated public policy of the ordinance “is to make certain that complaints concerning police misconduct and abuse are resolved fairly and timely. All collective bargaining agreements must be in accord with this policy.”

25. While the creation of OPS was an important step to ensure full, fair, thorough and detached administrative investigations of the most serious allegations of police misconduct, and while it created a greater level of transparency than the police investigating their own, IPRA improved on the reasonable and responsible model that was OPS and represented an enhanced investigatory agency with even greater powers and complete independence from the CPD. Such an oversight agency that actually conducts the most serious investigations of alleged misconduct, arrives at findings, and makes disciplinary recommendations that require the Superintendent to seek approval from a special panel if he or she attempts to decrease the level of discipline, is unique in American policing.

26. On October 5, 2016, the Chicago City Council passed an ordinance to establish the Civilian Office of Police Accountability (COPA), which replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. A few of the key differences between COPA and IPRA are:

- a. COPA receives a larger budget and is guaranteed to receive the equivalent of at least 1% of CPD’s budget<sup>21</sup> allowing an increase in the level of staffing from 98 in 2015 to 141 in 2018.
- b. COPA has expanded investigative responsibilities from IPRA. COPA responsibilities include all of the areas of IPRA and additional jurisdiction to investigate allegations of improper search and seizure, unlawful denial of counsel,<sup>22</sup> COPA may review lawsuits or claims against the Police Department or one of its members, where the lawsuit or claim was settled or resulted in judgment for the purpose of re-opening an investigation.<sup>23</sup>
- c. COPA may make recommendations to revise the Police Department’s policies, practices, collective bargaining agreements, programs and training in order to improve accountability, effectiveness, integrity and transparency of the Police Department,<sup>24</sup> and to conduct investigations of allegations of patterns or practices of misconduct.<sup>25</sup>

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<sup>21</sup> Chicago Municipal Code § 2-78-105.

<sup>22</sup> Chicago Municipal Code § 2-78-120 (f).

<sup>23</sup> Chicago Municipal Code § 2-78-120 (h).

<sup>24</sup> Chicago Municipal Code § 2-78-120 (m).

<sup>25</sup> Chicago Municipal Code § 2-78-120 (n).

- d. COPA has explicit access to all information possessed by the CPD and other city departments regardless of its connection to an ongoing case.
- e. COPA has a ban on hiring investigators who served as sworn officers with the CPD in the last five years.<sup>26</sup>
- f. COPA's ordinance includes a requirement that if mediation or other alternative resolutions outside of sustained investigations are pursued, then the person who made the complaint will be invited to participate. It also prevents complaints regarding serious injury and threats or use of domestic violence from being resolved outside of a full investigation.<sup>27</sup>
- g. COPA is required to notify the Mayor's Office if they fail to complete an investigation within six-months.<sup>28</sup>

**Independent Civilian Oversight is Not the Rule of American Policing,  
But Rather It is The Exception**

- 27. Independent civilian oversight of the police, particularly oversight agencies that have the authority to conduct independent investigations into allegations of police conduct is not the rule of American policing; rather it is a rare exception. Of the some 18,000 state and local law enforcement agencies in the United States<sup>29</sup> only about 120 law enforcement agencies have some type of citizen oversight,<sup>30</sup> which equates to less than .007 percent of law enforcement agencies that have any type of civilian oversight. Moreover, the number of police departments that have an independent oversight agency that actually investigates allegations of misconduct is far lower.
- 28. In his text, "Police Accountability: The Role of Citizen Oversight," Samuel Walker divides the most common forms of civilian oversight into four classes. Class I systems represent review bodies composed of non-police personnel that are autonomous from law enforcement agencies. These boards have complete investigative responsibility --they investigate complaints and make recommendations for disciplinary action, as well as the responsibility for making policy recommendations. Class II systems, Police Review/Citizen Oversight, include agencies where investigation of the complaint and discipline recommendations are conducted by the police department, but the citizen board has input into the review and analysis of the reports. Class III systems, Police Review/Citizen-Police Appeal Board, represent a model where police departments maintain responsibility over the investigation, review and disposition of the case, but complainants can appeal the outcome to a board composed of officers and citizens. Class IV systems reflect an independent auditor approach where the investigation, review, and

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<sup>26</sup> Chicago Municipal Code § 2-78-120 (s).

<sup>27</sup> Chicago Municipal Code §2-78-120 (i).

<sup>28</sup> Chicago Municipal Code §2-78-135.

<sup>29</sup> Reaves, B. A. (2011). Census of State and Local Law Enforcement Agencies, 2008. Washington, D.D.: Department of Justice, Bureau of Justice Statistics. <http://bjs.ojp.usdoj.gov/index.cfm?ty=pb&detail&id=2216>

<sup>30</sup> <http://nacole.org/resources/police-oversight-jurisdiction-usa>

disposition of cases are handled internally by the agency, but a citizen-based body (individual auditor or group) reviews the complaint process as a means of transparency and regulation, with the ability to make policy recommendations on the review process.<sup>31</sup>

29. OPS was a Class I system in that it was composed of non-police investigators who conducted the most serious allegations of police misconduct; however, the administrator of OPS did report directly to the Superintendent of Police.
30. IPRA represented a more robust form of Class I independent oversight in that IPRA accepts complaints, conducts independent investigations, makes recommendations as to findings and disciplinary actions, makes policy recommendations, is completely independent of the police department and maintains a website where it publishes reports, statistics, and information regarding its investigations to the public.
31. Of the largest police agencies in the nation, the City of Chicago is one of the very few that maintain a Class I independent investigatory agency for allegations of police misconduct,<sup>32</sup> and one of the very few that not only accepts citizen complaints but also conducts investigations based on subject matter alone like officer-involved shootings, death or injury while in-custody, and taser activations, without an allegation of misconduct.

#### **The Standard of Review to Determine Whether or Not an Administrative Investigation is Fair, Thorough and Complete is One of Reasonableness**

32. The appropriate standard of review when assessing the quality of an individual internal affairs investigation is one of reasonableness. The standard of review is not whether or not the investigation was “perfect,” whether “every stone was overturned” or if the investigation could have been conducted “better.” If these were the standards no investigation could pass muster as any expert could opine on a myriad of additional steps that could have been taken, different questions that could have been asked, questions that could have been asked in a different way or different methods to conduct the investigation.
33. To determine the quality of an investigation a reviewer should look at the totality of circumstances to assess if the investigation was reasonably thorough, fair and timely. The reviewer must recognize that investigators, who while appropriately trained, are not attorneys or experts, nor should they be held to such a high standard.

#### **Police Accountability Task Force Report**

34. Created in December 2015, the Police Accountability Task Force (PATF) was charged with developing comprehensive findings with specific recommendations for changes in the

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<sup>31</sup> Walker, S. (2000). Police Accountability: The Role of Citizen Oversight. Belmont, CA: Wadsworth/Thomson Learning, at 62.

<sup>32</sup> The ten largest law enforcement agencies in the United States are: New York City (36,023) Class I, Chicago (13,354) Class I, Los Angeles Police Department (9,727) Class IV, Los Angeles County Sheriff (9,461) Class IV, California Highway Patrol (7,202) – None, Philadelphia (6,624) –Class IV, Cook County Sheriff (5,655) - None, Houston (5,053) – Class IV, New York State Police (4,847) - None, Pennsylvania State Police (4,458)- None.

short, interim and long-term within the Chicago Police Department.<sup>33</sup> The Task Force released a 190-page report in April 2016 outlining its findings and making recommendations for change in a variety of areas related to police oversight, police-community relations, early intervention, de-escalation, and video release policies.

35. The PATF was formed prior to the Loury shooting, but the report was not published until after the shooting. Thus, any reliance Mr. Clark places on the PATF report to suggest the CPD or City of Chicago should have undertaken based on the report in relation to the Loury matter is without merit.
36. The formation of PATF shows that the City of Chicago is engaged in the ongoing review of its police department, i.e., reviewing and recommending changes to policies and practices of CPD and improving police service to the community. While these efforts are commendable, it does not mean that every conclusion or recommendation made by the PATF is worthy of acceptance or implementation.
37. The PATF made conclusions like “Every stage of investigations and discipline is plagued by serious structural and procedural flaws that make real accountability nearly impossible.”<sup>34</sup> Yet, the report does not support its conclusions with any evidence or even indicate if the Task Force reviewed any investigations to arrive at these conclusions.
38. The report is misleading in some areas. For example:
  - a. The report indicates that 40% of cases are never investigated due to the affidavit requirement. The affidavit requirement is discussed at length below, but the PATF fails to inform the reader the requirement is a matter of state law and that the City has taken actions to address the Legislature for a change. Since all shootings are investigated regardless of whether there is an affidavit, Mr. Clark’s statement about the affidavit requirement representing a barrier to a fair investigation is misplaced.
  - b. The PATF report criticizes the CPD contract for allowing officers to amend their statements after viewing video or audio evidence and suggests this allows officers to be dishonest if they are so inclined. But the PATF cites nothing to demonstrate that officers are incentivized to be dishonest by being allowed to amend statements after reviewing video or audio evidence.<sup>35</sup>
    - 1.) In fact, the contract provision states, “If, prior to taking an Officer’s statement, the Employer, IPRA or IAD is in possession of video or audio evidence relevant to the matter under investigation, it may, in its discretion, elect to advise or not to advise the Officer of such fact and, further, may allow or not allow the Officer an opportunity to review the video or audio evidence prior to taking the Officer’s statement. An Officer who is not allowed to review the video or audio evidence prior to giving a statement

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<sup>33</sup> <https://chicagopatf.org/about/what-is-police-accountability-task-force/>

<sup>34</sup> PATF report at 11.

<sup>35</sup> PATF report at 15.

shall not be charged with a Rule 14 violation unless the Officer has been presented with the video or audio evidence and given the opportunity to clarify and amend the Officer's original statement. In any event, the Employer shall not charge an Officer with a Rule 14 violation unless it has determined that: (1) the Officer willfully made a false statement; and (2) the false statement was made about a fact that was material to the incident under investigation.”<sup>36</sup>

- 2.) Policing is currently engaged in robust discussions regarding whether officers should be shown video of incidents prior to their interviews. There are strong opinions on both sides. This provision merely recognizes that the video may show something from an angle that was out of the officer's view or facts that the officer did not perceive at the time.
- 3.) Contrary to the Police Accountability Task Force report that states, “When an officer's report differs from the video or audio evidence, we should not assume that the officer knowingly made a false statement. But at the same time, we should not make it impossible to discipline an officer when there is evidence that a statement was knowingly false,”<sup>37</sup> the plain language does not make it “impossible” to discipline an officer for a knowingly false statement. Rather, it merely recognizes that an officer's perception may be different from the vantage point of the video camera and the officer should have an opportunity to review and respond to the video before being charged with a Rule 14 violation. Even without this provision, the officer would be allowed to express their perceptions that may differ from a video at a disciplinary appeal hearing as part of his or her Due Process Rights.

39. Moreover, the PATF does not cite the materials or basis of its opinions and conclusions reached a mere four months after the PATF was formed. There is no evidence that the PATF engaged in any rigorous review; rather, it appears the PATF drew its conclusions often based on anecdotal statements of community members whose opinions, while perhaps well-intentioned, may not be based on fact.

40. While the goal of the PATF is to make recommendations for changes and improvement to the police oversight systems in Chicago is both commendable and reflects a true interest on the City's part at improvement, the report cannot be relied upon to form a basis of an opinion that BIA or IPRA had a pattern or practice of conducting unreasonable investigations or that the City of Chicago was turning a blind eye to officer misconduct.

### **McGuire Woods Report**

41. The City of Chicago retained McGuire Woods, LLP, to conduct an independent audit of closed officer involved shooting investigations and make recommendations regarding how

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<sup>36</sup> 2012 contract, Article 6, Section 6.1M.

<sup>37</sup> Police Accountability Task Force Report at 72.

IPRA could improve its investigative processes. McGuire Woods issued a report dated March 2, 2017.

42. The McGuire Woods review considered cases from 2007 until 2015. The cases selected were not a random sample, but cases that represented the most challenging and problematic investigations in the view of the report authors. The purpose of the review was not to assess the outcome of specific cases, but to assess the strengths and weakness of investigative processes to identify appropriate reforms.<sup>38</sup>
43. The McGuire Woods report represents the City's further efforts to continually engaged in oversight of the CPD and to seek recommendations for improvements to the investigations of officer uses of force. Rather than turning a blind eye, or acting in a deliberately indifferent manner toward the use of force by its police officers, the City of Chicago retained outside experts to conduct a review. When the report was issued it contained a significant number of recommendations for improvements. Rather than ignoring the report and recommendations, IPRA issued a 14-page response to the recommendations that listed the steps already taken or in the planning process to address the recommendations.<sup>39</sup>

### **Safer Report**

44. In December 2014, a report titled, "Preventing and Disciplining Police Misconduct: An Independent Review and Recommendations Concerning Chicago's Police Disciplinary System," (Safer report) was published. The City of Chicago commissioned the report with two primary goals: to determine what more can be done to prevent police misconduct from occurring in the first place; and to ensure that when misconduct occurs, it is promptly reported, thoroughly investigated, and appropriately and effectively disciplined.<sup>40</sup>
45. The authors of the report made several recommendations that included:
  - a. Creating a disciplinary matrix with a specified range of consequences for each type of misconduct.
  - b. Discharging any officer involved in the Code of Silence.
  - c. Implement Education Based Discipline.
  - d. Improve supervisory effectiveness and accountability by implementing a patrol squad system; expanding the FTO program; enhancing the program for hiring, training and promotions; and establishing a supervisor mentoring and evaluation program.
  - e. Explore the use of body worn cameras.

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<sup>38</sup> April 12, 2017 letter from IPRA to the Mayor.

<sup>39</sup> <http://www.iprachicago.org/wp-content/uploads/2017/04/McGuireWoods-Final-Report.pdf>

<sup>40</sup> Safer Report at 2.

- f. Establishing an 18-month deadline for investigations and streamlining the appeals and grievance processes.
- g. Handling certain investigations at the District level.
- h. Changes to the Police Board limiting their ability to hear only the most serious of cases.

46. The authors of the report noted the constraints the may face the city in implementing the recommendations and stated, “The recommendations that flow from this study are ours alone. They reflect our judgment, as informed by our research and interviews with individuals who participate in and are impacted by the police disciplinary system. As independent consultants, we were not constrained by the practical realities under which those who operate in the present disciplinary system labor. For example, some of our recommendations require amendments to statutes or ordinances. We did not consider the political prospects for these changes. Some recommendations cost money to implement. We did not consider the competing demands on Chicago’s limited financial resources. Some recommendations require changes to collective bargaining agreements. We did not consider whether these changes are feasible. Some recommendations may be subject to challenge based on existing Illinois precedent defining due process requirements. We did not consider the likelihood of our recommendations surviving judicial review. Finally, we made our recommendations assuming continued involvement by all organizations that participate in the present disciplinary system. We did not consider whether IPRA, BIA, or the Police Board should or should not exist. We assumed their existence and continued roles in the disciplinary process. Thus, we do not expect, nor should any reader of this report expect, that all of our proposals will be implemented.”<sup>41</sup>

47. The report acknowledged steps already taken by the city to address their concerns. Those steps included:

- a. The City announced that it will increase transparency by making internal investigation files into alleged police misconduct open to public scrutiny.
- b. IPRA opened its first satellite office, filled vacant positions, converted five intake aide positions into investigator positions, is in the process of hiring an additional mediation attorney, and addressed turnover in its ranks.
- c. All police bargaining agreements have been amended to limit and streamline the options for challenging a disciplinary recommendation.
- d. CPD made promotions to the rank of Field Training Officer (FTO) to provide support and guidance for the surge of cadets who joined the force starting in 2013.

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<sup>41</sup> Safer Report at 9-10.

- e. CPD also improved training, including training of supervisors: more than 9,500 CPD personnel were trained in “Procedural Justice” and more than 1,100 FTOs and supervisors received the “True North” leadership course.
- f. BIA significantly augmented its staff.
- g. IPRA and BIA changed their procedures to allow investigators to interview accused officers earlier in the investigation.
- h. In 2014, CPD began piloting a patrol squad system in several districts.
- i. Finally, the new CBAs help streamline the disciplinary and grievance process.<sup>42</sup>

48. The PATF, the McGuire Woods report and the Safer Report were all commissioned by the City of Chicago to examine police practices, police misconduct and police discipline. In each case, there is evidence of affirmative steps taken by the City to address the concerns raised in the various reports. These reports all evidence that the City of Chicago is not turning a blind eye to police misconduct, rather it is actively engaged in its oversight responsibilities.

### **Department of Justice Report**

49. The United States Department of Justice, Civil Rights Division (DOJ) issued a report titled, “Investigation of the Chicago Police Department” on January 13, 2017 over three years after the McIntosh incident.

50. The Civil Rights Division of the Department of Justice may investigate police departments for what are commonly called “pattern-or-practice” cases under the authority of United States Code 42 U.S.C. § 14141. This authority was granted by Congress in 1994 after the Rodney King riots in Los Angeles. Since beginning pattern-or-practice investigations, DOJ has conducted 69 formal investigations and entered into 40 reform agreements.<sup>43</sup>

51. In Chicago, the DOJ reviewed 170 officer-involved shootings and sought the assistance of 11 independent subject-matter experts in arriving at their conclusions.<sup>44</sup> While the DOJ report commended the City for creating a new transparency policy relating to the release of videos<sup>45</sup> in their report and recommends transparency as it relates to CPD’s data collection,<sup>46</sup> the DOJ ignores the importance of transparency of their investigative efforts. The DOJ does not share the identity of any of the subject-matter experts, the level of review of the files, and most importantly the factual basis for their conclusions. Throughout their report, the DOJ cites facts from different investigations to support their conclusions, but in some cases, such as their criticisms of representative interference (as discussed in depth

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<sup>42</sup> Safer Report at 10.

<sup>43</sup> <https://www.justice.gov/crt/file/922421/download>

<sup>44</sup> DOJ Report at 2.

<sup>45</sup> DOJ Report at 3.

<sup>46</sup> DOJ Report at 12.

below) where the case could be identified, the DOJ conclusions cannot be supported. Moreover, the report frequently relies on anecdotal comments from officers and citizens alike to support their conclusions. This lack of transparency undermines the value of the report and its findings.

52. The DOJ report is flawed because it fails to include the following information:
  - a. The criteria or standard the DOJ relied on to determine that the CPD engaged in a pattern of unlawful conduct;
  - b. The specific CPD shooting cases (apart from three mentioned by name in the report) which were problematic;
  - c. Whether the CPD's process for investigating police-involved shootings was consistent with the processes in other similar large municipal police departments;
  - d. Whether the DOJ actually reviewed each of the over 100,000 police-shooting documents it was given;
  - e. What percentage of the total number of police-involved shootings the DOJ reviewed were unreasonable and what percentage were reasonable;
  - f. Whether and to what extent CPD's training deviates from national standards;
  - g. How the City's administrative review of officer-involved shootings compares to the similar review process for shootings by federal law enforcement officers from the FBI, DEA, Secret Service or any other federal agency.
53. The DOJ stated in its report that a "pattern or practice of unreasonable force may be found where incidents of violations are repeated and are not isolated instances" and while no mathematical formula is workable, nor was any intended, to make a determination of a pattern or practice, but that each case must turn on its own facts.<sup>47</sup> Without providing specific detail in their report by citing to cases that they could have easily identified, the conclusions of DOJ cannot undergo the same level of scrutiny that they are imposing on the CPD.
54. The DOJ report criticized CPD for the affidavit requirement and like the PATF report, they failed to inform the reader the affidavit requirement is state law.<sup>48</sup> The DOJ report found the sustained rate to be too low, but offered no evidence on the proper sustained rate or on how they define a sustained rate.<sup>49</sup>
55. For example, the DOJ criticized IPRA for allowing officer representatives to make comments to officers during an interview and suggested representatives were coaching

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<sup>47</sup> DOJ Report at 23-24.

<sup>48</sup> DOJ Report at 8.

<sup>49</sup> DOJ Report at 7.

officers and officers were then walking-back statements or change the course of their narrative. The DOJ report states, “We found that it was not uncommon for officers to change the course of the narrative or walk back statements they had made after their legal representatives whispered a few words.”<sup>50</sup> The DOJ report provides a single specific example of whispers that allegedly “chang[ed] the course of the narrative.” Although the DOJ report did not provide a citation for their example, I was able to locate the case through the material in the DOJ report.

a. The example provided by the DOJ states:

- 1.) Investigator: Okay. Do you remember hearing anything that your partner might have said during the whole incident? After you exited the uh squad car and you positioned yourselves, do you remember hearing your partner saying anything either commands to the offender or comments to you or anything like that?
- 2.) Officer: I remember hearing my partner say police as he announced his office.
- 3.) Investigator: Okay. Was that before or after he fired shots?
- 4.) Officer: Before.
- 5.) Investigator: Okay. All right. (pause)
- 6.) Union Attorney: (whispers to client)
- 7.) Officer: My partner also uh stated he has a gun.
- 8.) Investigator: Okay. Do you remember when he said that, when your partner said that?
- 9.) Officer: Inside the dumpster pin.
- 10.) Investigator: Okay.
- 11.) Union Attorney: (whispers to client)
- 12.) Officer: Uh as I ordered the offender to put his hands up is when I heard my partner say that, he, he’s gotta gun.”<sup>51</sup>

b. This portion of the interview in isolation suggests the officer’s attorney suggested

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<sup>50</sup> Frazier report at 11-12.

<sup>51</sup> DOJ Report at 62.

an answer to the officer that his partner said the suspect had a gun. However, the officer had already stated that he had seen the suspect with a gun as he entered the dumpster area,<sup>52</sup> that he ordered the suspect to raise his hands, that the suspect grabbed the gun and pointed it at him and then he heard shots being fired by his partner.<sup>53</sup>

56. It is also important to understand that while the investigation found deficiencies, the DOJ did not take efforts to sue the City of Chicago or seek to enter a consent decree or enforcement action. While it is true that these actions may have been based on political purposes, the same could be said for the report itself. A criticism like political motivation is one reason why the DOJ should be transparent in its investigation and offer specific evidence of alleged wrongdoing.
57. While the DOJ report does criticize the CPD, it also acknowledges that the CPD is not ignoring issues; rather, the City is taking affirmative steps to address concerns. Notably, the DOJ report documents some of the efforts of the City of Chicago to address policing concerns:
  - a. Mayor Emanuel established the PATF;
  - b. In December of 2016, the City issued a progress report outlining the steps it had taken to meet the recommendations of the PATF;
  - c. The City passed an ordinance creating the Civilian Office of Police Accountability (COPA);
  - d. The City passed an ordinance establishing a Deputy Inspector General for Public Safety, who is charged with auditing the entire police accountability system and identifying patterns that violate citizens' constitutional rights;
  - e. The City issued a new transparency policy mandating the release of videos and other materials related to certain officer misconduct investigations;
  - f. The City pledged to create an anonymous hotline for CPD members to report misconduct;
  - g. The City developed a draft disciplinary matrix to guide to discipline decisions;
  - h. In early 2016, the City began a pilot program for body-worn cameras; the City began a force mitigation/de-escalation training course;
  - i. The City revised several policies on the use of force;

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<sup>52</sup> RFC-Lane 107847.

<sup>53</sup> RFC-Lane 107848.

- j. The City committed to additional training officers' and dispatchers' response to the mentally ill;
- k. The City established a Community Policing Advisory Panel to help develop a strategic plan for community policing;
- l. The City has taken recruitment efforts to increase its diversity; and,
- m. The City retained a consultant to complete a staffing analysis.<sup>54</sup>

58. Any reliance Mr. Clark places on the DOJ report to support his conclusions are without merit. The DOJ report should have alerted Mr. Clark to conduct his own independent review, yet he failed to do so.

#### **Review of the Cases the City Provided to the DOJ**

- 59. I reviewed the shooting files that were provided as part of discovery in this matter. Below is a short synopsis of each case and the finding as it relates to the shooting. These are all cases that involve a shot being fired by a police officer where one or more of the bullets fired from the officer's gun struck a person or an animal. Some of these cases involve the shooting of dogs, frequently pit bulls, that were alleged to have been attacking an officer or a citizen. Some of the case were officer involved suicides or cases where an officer negligently fired the gun – sometimes wounding themselves. The majority of cases involve officers shooting at suspect whom the officers claim was either pointing a firearm at the officer or shooting at an officer. There are cases where officers were wounded and killed by gunshot wounds inflicted by suspects.
- 60. Although all of this same material was available to Mr. Clark in the *Lane* case and he could have requested to review the material for this matter, Mr. Clark said he did not review any of the underlying cases that the DOJ reviewed to formulate his own opinions.<sup>55</sup>
- 61. After reviewing these cases, it is my opinion that IPRA investigated these matters without an affidavit, they took reasonable investigatory steps to determine the truth of the matter under investigation, they arrived at reasonable conclusions and there is no evidence that the City of Chicago turned a blind eye to officer-involved shootings that would lead an unprincipled officer to believe they could violate the constitutional rights of others with impunity.
- 61. 1031066<sup>56</sup>
  - a. Officers were making a narcotics arrest and heard multiple gunshots. The arrestee was transported and four other officers left the arrest scene and drove toward the gunfire. The officers found Mr. Liggins firing into a crowd of people

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<sup>54</sup> DOJ Report at 3.

<sup>55</sup> Clark deposition at 59.

<sup>56</sup> RFC-Lane 022487-23199.

on the street. Officer Carroll exited his unmarked police vehicle and yelled, "Police!" Mr. Liggins turned toward Officer Carroll and raised a handgun in Carroll's direction. Officer Carroll shot Mr. Liggins one time and Liggins was treated for a gunshot wound to the hip. Liggins revolver was recovered at the scene.<sup>149</sup>

- b. Liggins claimed that "Michael Mays" and "Rio" began shooting at each other. As the police arrived at the scene they began to run and Liggins was running behind "Rio" who threw his gun and Liggins caught the gun and mid-air and was attempting to throw it down when he was shot. Liggins tested positive for GSR and pled guilty to the shooting.
- c. Three officers and two civilian witnesses support Officer Carroll's statements. The shooting was found to be justified.

62. 1031084<sup>57</sup>

- a. An officer saw Mr. Washington holding his right arm extended through a wrought iron fence pointing a gun at people who were on a porch. Two officers ordered Washington to drop the gun, but Washington turned and shot one round at the officers. Both officers returned fire and Washington was struck 2-3 times in the hip and leg. The gun was recovered.
- b. A civilian witness saw Washington with a gun earlier in the day and a civilian witness saw Washington throw his gun under a porch and saw an officer find Washington's gun. Washington denied that he had a gun. The shooting was found to be justified.

63. 1031792<sup>58</sup>

- a. An officer shot an aggressive pit bull that had attacked two males after another officer tried to subdue the dog by tasing it. Mr. Deal claimed that he was struck by fragments of one of the bullets and gave one of the fragments to a sergeant at the scene. Medical reports indicate Mr. Deal's wound could have been a bullet graze or due to a dog bite.
- b. The investigator concluded that even assuming a bullet fragment struck Mr. Deal, the act was not intentional by the officer and the shooting of the pit bull was reasonable.

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<sup>57</sup> RFC-Lane 023200-23781.

<sup>58</sup> RFC-Lane 023782-23978.

64. 1031830<sup>59</sup>

- a. A SWAT team served a high-risk warrant and handcuffed a suspect inside of a residence. A Rottweiler exited the residence as the officers entered, but it returned inside after the officers handcuffed the suspect. The dog lunged at an officer and an officer shot the dog one time. The bullet fragmented or ricocheted and struck the suspect on his toe and shoulder.
- b. The officer's actions were found to be reasonable because the officer fired one round to defend against an attacking dog.

65. 1031979<sup>60</sup>

- a. Officers responded to a domestic violence call involving a knife. The officers confronted the suspect who was armed with a knife and arguing with his wife. The suspect raised the knife over his head and ran at the officers. The officers shot the suspect.
- b. A civilian witness, Jacob Sasenberg, said the suspect charged at the officers with a knife. A second civilian witness said the officer spoke with the suspect for several minutes and told him everything was okay and they wanted to mediate the situation. The witness said the officers started backing up and the suspect charged at the officers. The suspect's wife also stated the suspect ran at the officers.
- c. The suspect's wife said the suspect has suffered with depression, but had stopped taking his medication. The shooting was found to be justified.

66. 1032242<sup>61</sup>

- a. Officers were executing a search warrant and two pit bulls charged at the officers as they made entry. Three officers shot and killed the dogs and one of the officers was struck by a bullet. It could not be determined whose bullet struck the officer.
- b. The allegations against the officers were not sustained.

67. 1032272<sup>62</sup>

- a. A victim notified police that his car was carjacked and the victim located the vehicle with a GPS device. Officers located and blocked the vehicle to prevent a

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<sup>59</sup> RFC-Lane 023979-24225.

<sup>60</sup> RFC-Lane 024226-24806.

<sup>61</sup> RFC-Lane 024807-25124.

<sup>62</sup> RFC-Lane 025125-25916.

pursuit. The driver backed toward one of the police vehicles, struck the vehicle and one of the officers. Another officer fired at the vehicle. The vehicle continued in reverse until it struck a wall. One subject inside the vehicle had been shot and another subject was shot by officers as he tried to flee and after he pointed a weapon at an officer.

- b. One suspect died from his wounds and the other suffered two gunshot wounds.
- c. A civilian witness, Jacinta Moore, saw the suspect shoot at the officers. The officer said the suspect pointed a gun at him, but he is not certain if the suspect shot the gun. The shooting was found to be justified.

68. 1032585<sup>63</sup>

- a. Officer Ramirez was putting on his duty belt and holstering his handgun while at the police station when he unintentionally discharged the gun, striking his leg.
- b. This case was sent to mediation, but mediation was unsuccessful thus the investigation was completed.
- c. Allegations of inattentive to duty against Officer Ramirez for his negligent discharge were sustained.

69. 1033036<sup>64</sup>

- a. A suspect held a victim at gunpoint, forced her to perform oral sex and shot the victim multiple times as she fled the apartment. SWAT had responded and an officer was positioned outside the door to the apartment. When the victim (5'9" 275 lbs.) suddenly fled from the apartment and fell on top of the officer which caused the officer to discharge his firearm. The bullet struck the officer in the leg.
- b. The allegation against the officer for the negligent discharge of his firearm were unfounded based on the totality of the circumstances.

70. 1024576<sup>65</sup>

- a. Two officers went to Matthias Mayhorn's residence to arrest him for an aggravated domestic violence (cut victim with a knife) and telephone threat (threat to kill victim and everyone in her family) alert. The officers stated

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<sup>63</sup> RFC-Lane 027085-27227.

<sup>64</sup> RFC-Lane 031981-32206.

<sup>65</sup> RFC-Lane 001920-2399.

Mayhorn fled into his residence and tried to escape through a second story window. The officers grabbed his legs preventing him from fleeing but Mayhorn had the upper half of his body hanging outside the window. The officers stated Mayhorn drew a gun. One officer shot at Mayhorn and the officers released their grip. Mayhorn fell to the ground and died at the scene.

- b. Mayhorn's gun was recovered. Mayhorn suffered a gunshot wound to the leg and the head.
- c. Allegations against the officers were sustained due to an unlawful entry of the residence. The officers did not have warrants for Mayhorn's arrest, only an investigative alert. Allegations were sustained for seizing Mayhorn without justification. The allegations of excessive force were exonerated.
- d. IPRA met with the superintendent and there was a dispute as to the appropriate level of discipline. IPRA documented their concerns in a memorandum to the Police Board. The Police Board ruled in favor of the Superintendent.

71. 1027261<sup>66</sup>

- a. Officer used an informant and arranged for a drug transaction. The suspect arrived in a vehicle and subsequently attempted to flee the scene in the vehicle. The suspect's vehicle struck a police vehicle and when the suspect drove toward an officer who was on foot, the officer shot the suspect. The suspect suffered a gunshot wound to the shoulder.
- b. Two civilian witnesses said they believed the officer's life was in jeopardy.
- c. The shooting was found to be justified.

72. 1030025<sup>67</sup>

- a. Several subjects got into a fight and one of the subjects shot another subject. An off-duty officer happened to be at the intersection and heard the gunshot, but did not see the victim being shot. The officer pursued the suspect with the gun in his vehicle. The officer stated he identified himself as a police officer and the suspect pointed the gun at him on two different occasions. On each occasion, the officer shot at the suspect and the suspect died from his wounds.
- b. The shooting was found to be justified.

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<sup>66</sup> RFC-Lane 008102-8655.

<sup>67</sup> RFC-Lane 018263-19055.

73. 1041914<sup>68</sup>

- a. An officer at the range drew his gun to shoot at a target on command. The officer fired a round that struck the concrete floor. Three officers were struck by either bullet fragments and concrete fragments and received minor injuries.
- b. The allegations against the officer were unfounded as the officer was participating in a training exercise and was not negligent in the discharge of his firearm.

74. 1047054<sup>69</sup>

- a. Officers were assigned a high crime area where two homicides and several aggravated batteries had occurred. The officers saw a subject shoot a handgun at a group of people and the suspect ran from the scene. The officers pursued the suspect. The suspect pointed his gun at the officers on three separate occasion and one officer shot at the suspect each time he pointed his gun. The suspect collapsed in an alleyway and died from his wounds. The suspect's gun was recovered at the scene.
- b. The shooting was determined to be justified.

75. 1048658<sup>70</sup>

- a. This is the Giles shooting case. This case was tried in federal court and a verdict was reached for the city. The jury found the shooting to be justified. IPRA also found the shooting to be justified.
- b. I was retained by the city in the civil lawsuit and testified at the trial.

76. 1032413<sup>71</sup>

- a. Officers were trying to make a car stop on a suspected narcotics violator. The suspect collided with a vehicle and the officers approached on foot. The vehicle revved its engine and drove toward an officer. The officer fired at the vehicle and as he was trying to get out of the way of the vehicle he slipped on ice and fell to the ground. Another believed the suspect was driving over the officer who fell and he fired into the vehicle. The suspect was arrested with 278 baggies of crack cocaine and he suffered multiple gunshot wounds.

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<sup>68</sup> RFC-Lane 062491-62604.

<sup>69</sup> RFC-Lane 080867-81316.

<sup>70</sup> RFC-Lane 086401-86739.

<sup>71</sup> RFC-Lane 025917-26618.

b. The shooting was found to be justified

77. 1032424<sup>72</sup>

- a. A suspect committed an armed robbery. The victim ran out of the store and immediately reported the robbery to officers who were in a marked patrol car nearby. Other officers located the suspect and engaged in a foot pursuit. The suspect pointed a gun at an officer who fired two rounds. The officer's gun jammed, but he was able to clear the malfunction. The officer and another officer shot at the suspect again as the suspect was running parallel to them and again pointed the gun at the officer. The suspect fell to the ground and died from his wounds.
- b. The shooting was found to be justified.

78. 1032749<sup>73</sup>

- a. Officers were dispatched to a domestic disturbance and when they arrive a subject was holding a knife to his throat. The subject refused to obey commands. A taser was used, but it was ineffective. The subject was able to grab his wife and held the knife to her throat. The subject pushed his wife to the side and lunged at the officers with the knife and the officers shot him. The subject died from his wounds.
- b. The shooting was found to be justified.

79. 1032773<sup>74</sup>

- a. Officers stopped a vehicle that was reported stolen. When the officer conducted a pat down search of the driver, he felt a gun in the driver's pocket. The driver was able to flee and ran from the scene. During the foot pursuit, the driver pointed his gun at the officer and the officers shot at the suspect. The suspect was wounded and the gun was recovered.
- b. The suspect later filed a civil suit claiming the officers used excessive force during the pat down and he ran due to the force applied. The suspect denied he had a gun and said when he had his hands raised and was surrendering when he was shot.
- c. The suspect pled guilty to being an armed habitual criminal and was sentenced to 14 years.

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<sup>72</sup> RFC-Lane 026619-27084.

<sup>73</sup> RFC-Lane 027228-27653.

<sup>74</sup> RFC-Lane 027654-29804.

- d. The shooting was found to be justified.

80. 1032800<sup>75</sup>

- a. A subject who rents a rent from the resident was making noise. When asked to turn the music down, the subject pointed a gun at the resident who then called 911. The officers entered the subject's run and he was holding a gun. The subject was given orders in English and in Polish to drop the gun. The subject pointed his gun at the officers and two officers shot and killed the subject.
- b. The gun held by the subject was a replica firearm.
- c. The shooting was found to be justified.

81. 1032801<sup>76</sup>

- a. Officers were flagged down and told that subjects shot at them. Officers attempted to stop the suspect vehicle, but the driver fled until he crashed into a fence. The driver then backed into a police vehicle. The driver ran from the vehicle holding a handgun. The driver pointed his gun at an officer and the officer shot at him. The suspect continued to run and was confronted by two different officers. The suspect again pointed his gun at the officers and both officers shot at the suspect. The suspect was wounded and the gun was recovered.
- b. The shooting was found to be justified.

82. 1032812<sup>77</sup>

- a. Officers stopped a car for a stop sign violation. The driver claimed subjects in a nearby van had a gun. Officers checked the van and discovered no one had a gun and when they returned to the driver of the stopped vehicle the driver fled. An officer accidentally discharged his firearm when he slipped on the ice trying to avoid the vehicle (investigated under 0132817). The officer then engaged in a slow pursuit of the vehicle as it had hit an object and was dragging its bumper. The vehicle was blocked by police vehicles and the driver revved the engine and drove toward an officer. Three officers fired their guns at the driver. When the driver exited the vehicle, he held his arm near his chest. Believing the suspect was armed, another officer shot at the driver.
- b. The shooting was found to be justified.

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<sup>75</sup> RFC-Lane 029805-30315.

<sup>76</sup> RFC-Lane 030316-30985.

<sup>77</sup> RFC-Lane 030986-31980.

83. 1033150<sup>78</sup>

- a. Officers were responding to a shooting incident where Mr. Washington was with a subject who had just shot two people. The officers located the suspects' vehicle and when the vehicle stopped, Mr. Washington ran from the vehicle. One officer pursued on foot and the other followed in a vehicle. Officer Keenan saw Mr. Washington had a gun and gave orders for him to stop and drop the gun, but he refused. Washington ran to the front of the house where he was confronted by Sergeant Jerome who ordered him to stop and drop the gun, but Washington pointed the gun at Jerome and Jerome shot him in the left arm.
- b. Washington admitted he was with another gang member who shot at other gang members and that he knew the police were chasing him and that he had a gun. Washington claimed he was holding the gun by the barrel so the police would not shoot him and denied pointing the gun at Jerome.
- c. The shooting was found to be justified.

84. 1033337<sup>79</sup>

- a. Officers stopped a stolen vehicle. As the officers exited their vehicles, the driver of the stolen vehicle backed his vehicle. One officer had dropped a flashlight as he was exiting his vehicle and did not see the vehicle moving toward him until he picked up the flashlight. That officer was struck by the vehicle on his knee and he fired twice at the driver. Another officer, believing the first officer had been hit by the car and had fallen, fired at the driver. The driver suffered multiple gunshot wounds but survived.
- b. The driver admitted that he attempted to get away by driving forward and backwards to avoid going back to prison. The shooting was found to be justified.

85. 1033422<sup>80</sup>

- a. Officers responded to a shots fired call and saw an AK assault rifle barrel protruding from a second-story residential window. Officers made entry, confronted the subject, who had his hands in his pockets and who did not comply with the officer's orders. The officer shot at the suspect two times. While the officers made entry into the house the suspect had thrown the rifle out of the window and it was recovered. Several other firearms were seized inside the home.

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<sup>78</sup> RFC-Lane 032207-32657.

<sup>79</sup> RFC-Lane 032658-33148.

<sup>80</sup> RFC-Lane 033149-33736.

b. The suspect claims he saw the police and began throwing his guns out of the window. The suspect claims his hands were raised and he was getting on the ground as instructed when he was shot.

c. The shooting was found to be justified.

86. 1033489<sup>81</sup>

a. An off-duty officer was working at a Subway sandwich shop when a suspect entered the store, pointed a gun at the officer and tried to rob the store. The officer stated he identified himself as a police officer, drew his handgun and shot the suspect. The suspect received a gunshot wound to his leg. Another Subway employee saw the suspect and heard his robbery demands, but fled and did not see the shooting. Store video confirms the officer's account.

b. The shooting was found to be justified.

87. 1033501<sup>82</sup>

a. Officers observed a narcotics transaction and saw one of the suspects had a gun. Officers conducted a car stop on the subject after he left and ordered the suspect at gunpoint to show his hands. Instead the suspect reached for his gun that was in his waistband. Both officers shot at the suspect and he received a wound to the neck. The suspect survived.

b. The suspect denied ever having a gun and drugs in his possession. Cocaine and a handgun were recovered inside the suspect's vehicle.

c. The shooting was found to be justified.

88. 1033864<sup>83</sup>

a. An off-duty officer was working a security assignment when he heard gunshots in the parking lot. The officer saw a subject running from the area holding a handgun. The officer chased the subject and as the subject was entering his vehicle, he turned and pointed the gun at the officer. The officer shot at the suspect. The suspect was later arrested after he went to the hospital with a gunshot wound to the leg.

b. The shooting was found to be justified.

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<sup>81</sup> RFC-Lane 0033737-34042.

<sup>82</sup> RFC-Lane 034043-34421.

<sup>83</sup> RFC-Lane 034422-34904.

89. 1033980<sup>84</sup>

- a. Officers saw a suspicious subject and attempted to speak with him. The suspect ran and the officers chased after the suspect on foot. During the chase, the suspect was holding his right side as though he may have a gun. An officer caught up to the suspect, ordered him to stop. The suspect turned toward the officer holding his right side and the officer shot the suspect. After the suspect was in custody, officers walked the path of the foot pursuit and located a handgun.
- b. The officer stated he never saw a gun in the suspect's possession, but believed he had a gun when he turned and raised his arm.
- c. The shooting was found to be justified.

90. 1034797<sup>85</sup>

- a. Officers were called due to a subject who had locked his ex-girlfriend out of her apartment. The ex-girlfriend had a restraining order, the subject was armed with a knife and there were children inside the apartment. The officers saw the subject inside the apartment brandishing the knife. The officers forced entry and pursued the suspect to an upstairs bedroom where he held the knife to a child's neck. The officers ordered the subject to drop the knife several times, when he refused an officer shot at the suspect two times, killing him.
- b. The shooting was found to be justified.

91. 1034913<sup>86</sup>

- a. An off-duty officer was alone in his sister's basement when he heard loud banging upstairs. He went upstairs armed with his handgun and confronted three subjects who had broken into the home. The officer said one of the subjects made a threatening move toward him so he fired four rounds at the subject. The subjects fled from the residence and the officer did not know if his shots struck anyone. The officer said the subject turned toward him with his hand in his pocket and he believed the subject had a gun.
- b. A possible suspect went to the hospital with two bullet wounds, but he claimed he was shot while being robbed.
- c. The shooting was found to be justified.

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<sup>84</sup> RFC-Lane 034905-35229.

<sup>85</sup> RFC-Lane 035230-35599.

<sup>86</sup> RFC-Lane 035600-35933.

92. 1034997<sup>87</sup>

- a. Officers responded to a call of shots fired. The officers attempted to question a subject who walked away from them. The officers ordered the subject to show his hands but he reached for a gun in his rear waistband and then began to run. During the foot chase, the officers said the subject turned and pointed the gun at them, so one officer fired one round striking the subject. The subject continued to run and threw his gun which was recovered. The subject was then apprehended.
- b. A witness said the subject had a gun in his possession and the police told him to freeze, but he ran.
- c. The subject died from his wound.
- d. The shooting was found to be justified.

93. 1035116<sup>88</sup>

- a. Officers were breaking up a large street party when they saw a man with a gun. The man began to run from the officers and the officers chased on foot. An officer confronted the subject in an alley, the subject pointed his gun at the officer. The officer fired one round that struck and killed the subject.
- b. One witness said the subject was not armed when he was shot. This witness statement was refuted by several officers who all said they saw the subject with a gun, the recovery of the gun, and the route ran by the suspect.
- c. The shooting was found to be justified.

94. 1035127<sup>89</sup>

- a. Officers responded to a man with a gun and shots fired. Upon their arrival, they saw a subject in the doorway of a medical center holding a shotgun. The officers ordered the subject to put the gun down, but he pointed it at the officers. Four officers shot the subject who died from his wounds.
- b. Four civilian witnesses supported the officers' statements.
- c. The shooting was found to be justified.

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<sup>87</sup> RFC-Lane 035934-36198.

<sup>88</sup> RFC-Lane 036199-36672.

<sup>89</sup> RFC-Lane 036673-37186

95. 1035738<sup>90</sup>

- a. Officers attempted to stop a car for its lack of a license plate when the passenger exited the car and began shooting at the officers. 16 expended casing were recovered from the suspect's gun. The officers returned fire, killing the suspect.
- b. The shooting was found to be justified.

96. 1036177<sup>91</sup>

- a. An off-duty officer heard noises at his home and went downstairs and confronted a subject who was attempting to gain entry by use of a crowbar. The officer identified himself, but the subject made verbal threats then attempted to assault the officer with the crowbar. The officer shot the suspect three times. The suspect died from his wounds.

- b. The shooting was found to be justified.

97. 1036441<sup>92</sup>

- a. An off-duty officer was at his father's residence to show him a new motorcycle. The off-duty officer's father is a retired CPD sergeant. The officer was confronted by a subject who pointed a gun at his head. There was an exchange of gunfire between the subject and the officer. The retired sergeant went into his home and retrieved his handgun. When he returned he exchanged gunfire with multiple suspects. One suspect and the officer were killed.

- b. The shooting by the officer was determined to be justified.

98. 1036633<sup>93</sup>

- a. CIT officers responded to a residence due to threats made by a subject. The subject lunged at the officers with a knife and the retreated into a bedroom. Lengthy negotiations ensued where the suspect claimed he had a shotgun and would kill officers if they tried to enter his room. Chemical agents and a taser were used prior to an officer shooting the suspect and wounding him. The officer shot the suspect as he moved toward them stabbing at the officers.

- b. The shooting was found to be justified.

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<sup>90</sup> RFC-Lane 037187-37839.

<sup>91</sup> RFC-Lane 037840-38140.

<sup>92</sup> RFC-Lane 038141-40232.

<sup>93</sup> RFC-Lane 040233-40842.

99. 1036849<sup>94</sup>

- a. Officers were patting down a suspect when he broke free. Three officers state the subject pulled a gun and turned the gun toward the officers. One officer fired one round striking the suspect. Several witnesses said they did not see the suspect with a gun, but all of the witnesses were a distance away and a gun was recovered.
- b. The shooting was found to be justified.

100. 1036882<sup>95</sup>

- a. An off-duty officer had a domestic dispute with her husband. The husband armed himself with a gun and shot at a friend of the off-duty officer. The husband returned inside the residence, pointed the gun at the off-duty officer and the off-duty officer shot him once in the arm. The husband admitted firing a "warning shot" at the other subject.
- b. The allegation regarding the use of force was exonerated, but several allegations were sustained for domestic violence and possession of an unregistered gun.

101. 1037191<sup>96</sup>

- a. Officers responded to a man with a gun call. Upon their arrival, the officers saw a suspicious subject who ran from the officers. The officers pursued the subject on foot. The subject fired a round at the officers, and an officer returned fire striking the subject.
- b. The shooting was found to be justified.

102. 1037789<sup>97</sup>

- a. Officers were attempting to disperse a large crowd when a fight broke. A subject fired a gun, then fled by running away. Other officers responded into the area and chased the subject. The subject was trying to jump a fence as the officers approached him. The subject pulled the gun from his waistband and pointed it in the direction of an officer. The officer fired one shot, striking the subject in the upper left shoulder.
- b. A witness saw the subject holding a gun prior to the shooting.

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<sup>94</sup> RFC-Lane 040843-41332.

<sup>95</sup> RFC-Lane 041333-49161.

<sup>96</sup> RFC-Lane 049162-49514.

<sup>97</sup> RFC-Lane 049515-49897.

- c. The shooting was found to be justified.

103. 1038558<sup>98</sup>

- a. T-Mobile employees believed two subjects may be casing their store to commit a robbery as the subjects were suspicious and matched the description of suspect in a nearby T-Mobile robbery. Officers responded to the store. One officer remained outside and the other went inside to interview the employees. While in a back room, the officer heard a subject ordering the employees to go to the back room and it was a robbery. The officer confronted the subject and there was an exchange of gunfire. One suspect fled on foot and was apprehended nearby, he claimed he was shot by a white man. The other suspect was later located and arrested. The suspect's handgun was recovered.
- b. A DNA test revealed the suspect's DNA on the recovered gun.
- c. The shooting was found to be justified.

104. 1038595<sup>99</sup>

- a. Two officers parked their car in front of a stolen vehicle to prevent the driver from fleeing. As the officers exited their vehicle and moved toward the stolen vehicle, the driver accelerated toward the officers. The officers shot at the vehicle as it approached. The front end of the vehicle struck one officer who landed on the hood, fell to the ground and suffered a broken knee. The driver was able to flee and as he did, other arriving officers shot at him. The driver and his passenger escaped. The passenger was arrested a short time later with a gunshot wound to his forearm. The passenger identified the driver who was later arrested, prosecuted and convicted for two counts of attempted murder.
- b. The shooting was found to be justified.

105. 1038604<sup>100</sup>

- a. Officers responded to a shots fired call with a vehicle description. Officers located the vehicle and a pursuit ensued. During the pursuit, the driver drove toward two officers who believed the driver was going to try to hit him. The officers shot at the vehicle. The driver exited the vehicle and ran on foot. During the foot chase, the driver pointed a gun at an officer three separate times and the officer shot at the subject each time. The suspect eventually fell to the ground after being shot. The suspect's gun was recovered.

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<sup>98</sup> RFC-Lane 052062-52731.

<sup>99</sup> RFC-Lane 052732-53707.

<sup>100</sup> RFC-Lane 053708-54606.

- b. The shooting was found to be justified.

106. 1038934<sup>101</sup>

- a. Officers on patrol heard gunshots. They continued to patrol the area and they again heard gunshots. The dispatcher radioed a description of the suspect and the officers located a subject matching the description. The subject entered a vehicle and a slow speed pursuit ensued. The vehicle came to a stop and the subject exited the vehicle and pointed a gun at the officers. Two officers shot at the subject, striking him in the calf. The suspect's gun was recovered.

- b. The shooting was found to be justified.

107. 1039105<sup>102</sup>

- a. An off-duty officer was at home when he heard banging on his front door. The officer looked outside, but did not recognize the subject. The subject then went to the basement door and began to knock on that door. The subject left the area and the officer went outside to look for me, but did not see the subject. Twenty minutes later, the suspect forcibly entered the officer's home and confronted the officer with a tire iron. The officer fired 14 rounds at the suspect killing him.

- b. The shooting was found to be justified.

108. 1039179<sup>103</sup>

- a. Officers attempted to make a traffic stop and a pursuit ensued. The suspect eventually ran into a police vehicle, injuring the officers inside the victim vehicle and the suspect's vehicle burst into flames, but the suspect continued to try to flee by driving forward and backwards and striking other cars. The driver struck an officer and several officers shot at the driver. The passenger in the car suffered a gunshot wound to the leg and the driver was pulled by officers from the burning vehicle.

- b. The passenger in the car said the passengers were telling the driver to stop, but he refused. The passenger said the driver crashed head on with the police vehicle.

- c. The shooting was found to be justified.

109. 1039363<sup>104</sup>

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<sup>101</sup> RFC-Lane 054607-55337.

<sup>102</sup> RFC-Lane 055338-55793.

<sup>103</sup> RFC-Lane 055794-57089.

<sup>104</sup> RFC-Lane 057090-57730.

- a. An off-duty officer and his girlfriend went into a restaurant to purchase take out. While they were waiting for their food, two subjects entered the restaurant and began to rob the customers. The officer began to draw his gun when one the suspect shot at him. The officer engaged in a gun battle with the suspect and the suspect was hit. The second suspect was able to escape, but was later arrested.
- b. The suspect's gun was recovered, and DNA matched the suspect.
- c. The shooting was found to be justified.

110. 1039919<sup>105</sup>

- a. Officers responded to a man with a gun on a CTA train. The conductor gave the officers a description and the officers located the subject. When the officers tried to contact the subject, he pulled a handgun and pointed it at the officers. Both officers shot the suspect who died at the scene.
- b. The shooting was found to be justified.

111. 1040514<sup>106</sup>

- a. An officer was conducting a surveillance of gang members when he saw a subject shoot in the direction of several individuals. The officers drove toward the subject and the subject began to run toward the officer pointing a gun at the officer. The subject ran on foot and the officer saw him discard the gun which was recovered. The subject then sat down and surrendered and it was discovered he had been shot in the leg.
- b. The shooting was found to be justified.

112. 1040637<sup>107</sup>

- a. A motorist ran a red light and nearly struck a bicycle officer. Officer tried to stop the vehicle, but the driver fled and a vehicle pursuit ensued. The officers state the driver drove toward them and he fired two rounds at the driver. The driver then put the vehicle into reverse and again drove toward the officer who fired additional rounds. The driver then crashed into a police car and another officer shot at the driver. The driver tried to run from the scene and pointed a gun at the officers and a third officer shot at the subject. The subject was arrested after a foot pursuit. The driver suffered a graze wound to his face.

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<sup>105</sup> RFC-Lane 057731-58018.

<sup>106</sup> RFC-Lane 058019-58400.

<sup>107</sup> RFC-Lane 058401-59202.

b. The shooting was found to be justified.

113. 1040868<sup>108</sup>

- a. An off-duty officer and her husband were arguing and the off-duty officer committed suicide with a handgun.
- b. The investigation found the shooting death was a suicide and classified as unjustified.

114. 1041502<sup>109</sup>

- a. Officers attempted to contact a suspicious subject in a gas station parking lot and the subject ran from the officers. As the subject ran, officers saw the subject drop a gun and then stopped to pick up the gun while facing one of the officers. The subject ignored the officer's commands to not pick up the gun and an officer fired one round at the subject. The subject then ran from the officers began and eventually turned toward one of the officers, and raised his right hand with a handgun pointed toward the officer. The officer shot at the subject several times and the subject was struck on his chest and his right hand.
- b. This shooting was found to be justified.

115. 1041660<sup>110</sup>

- a. Officers located a subject who was wanted for committing an armed robbery earlier in the day and when the subject saw the officers he began to run. One officer found the subject lying on the landing of the staircase and ordered him to stand up and show his hands. Instead, the subject stood up and pointed a handgun at the officer and the officer, along with a second officer, shot at the subject, striking him one time in the leg.
- b. This shooting was found to be justified.

116. 1041681<sup>111</sup>

- a. Officers attempted to stop a vehicle, but the driver refused to stop and the officers observed objects being thrown from the van as it continued to move. The van struck another vehicle, came to a stop and 6-8 people exited the van. One of the subjects came toward one of the officers, grabbed his lace, punched him in the knee, and attempted to tackle him to the ground. The subject then attempted to grab the officer's gun, but the officer was able to draw his firearm

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<sup>108</sup> RFC-Lane 059203-59396.

<sup>109</sup> RFC-Lane 060603-60919.

<sup>110</sup> RFC-Lane 060920-61287.

<sup>111</sup> RFC-Lane 061288-62037.

and fired three shots at the subject. The subject died from his wounds. At the same time, another subject came at a second officer with a handgun and the second officer shot at the second subject. All the individuals in the van were eventually located and arrested.

- b. This shooting was found to be justified.

117. 1041893<sup>112</sup>

- a. Officers were conducting surveillance and saw a subject parked his vehicle in front of the van, exit his vehicle and get into the back of the van. An officer contacted the subject near the passenger side of the van and ordered the subject to show his hands. The subject turned around and the officer discharged her weapon once striking the subject in the chest. The subject died at the scene.
- b. There was insufficient evidence in this matter to either prove or disprove an allegation of excessive force and the finding was not sustained.

118. 1042384<sup>113</sup>

- a. Officers heard a collision and as they drove to the scene several onlookers told them someone hit a lady did not stop. The officers saw a bus shelter that appeared to have been struck by a vehicle and destroyed. Witnesses identified the vehicle at a gas station and as an officer approached the vehicle the driver read the engine and gunned the vehicle toward the officer. The officer fired three rounds at the driver. The driver fled and eventually came to a stop after eating several parking meters and crashing into a building.
- b. The shooting was found to be justified.

119. 1042470<sup>114</sup>

- a. Two plainclothes officers attempted to contact two subjects, but the subjects ran away. One of the subjects turned in the officer's direction with a dark colored gun in his hand and the officer fired one shot striking the subject in the left hand. The gun was recovered.
- b. The shooting was found to be justified.

120. 1043040<sup>115</sup>

- a. Officers were conducting a narcotic surveillance when they saw two subjects

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<sup>112</sup> RFC-Lane 062038-62490.

<sup>113</sup> RFC-Lane 062605-63140.

<sup>114</sup> RFC-Lane 063141-63500.

<sup>115</sup> RFC-Lane 06350-63787.

engaged in a hand-to-hand transaction. An officer appeared from his hiding place and identified himself to one of the subjects and the subject raised a handgun and pointed it in the officer's direction. The officer fired his handgun twice at the subject and the subject fled through a vacant lot. The subject then turned and pointed his handgun in the officer's direction again in the officer again shot of the subject who fell to the ground. The gun was recovered.

- b. The shooting was found to be justified.

121. 1043057<sup>116</sup>

- a. Officers responded to assist the Illinois State police who told them a subject had been involved in a domestic battery altercation on the expressway and the subject was barricaded inside his upstairs bedroom with a knife. The officers observed blood on the walls and floor of the residence and ordered the subject to come out of his bedroom without the knife. An officer kicked the bedroom door open and three officers saw the subject holding a knife. The subject screamed and charged out of the bedroom toward the officers while holding the knife above his head. An officer shot the subject to times in his side and the subject fell to the floor where he continued to struggle with officers until he was tasered.

- b. The shooting was found to be justified.

122. 1043106<sup>117</sup>

- a. Officers responded to a call of the criminal trespass in progress and were directed to the sixth floor by a desk clerk. The officers confronted a subject was holding a knife in his right hand into screwdrivers in his left hand. The officers gave the subject multiple commands to drop the knife and screwdrivers, but the subject refused. The subject began to walk toward the officers and the officers retreated until the officer could retreat no further as he was backed up against the wall. The officer then fired his handgun once, striking the subject in the lower left midsection of his body.

- b. The shooting was found to be justified.

123. 1043529<sup>118</sup>

- a. Officers arrested a subject for panhandling and placed him in the backseat of their unmarked squad car to drive him to the police station. While driving to the police station, one of the officers looked toward the backseat and saw the subject

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<sup>116</sup> RFC-Lane 063788-64497.

<sup>117</sup> RFC-Lane 064498-64888.

<sup>118</sup> RFC-Lane 064889-65753.

holding a gun in his hand, heard a gunshot and saw his partner exit the vehicle. The officer heard a second gunshot and was struck by a bullet that pierced his skin, but did not make entry into his body. The officers returned fire at the subject, striking him four times and killing him.

- b. The officer who conducted the inadequate patdown search retired and did not provide a statement.
- c. The shooting was found to be justified by the officer who was still working with the department.

124. 1043569<sup>119</sup>

- a. Officers responded to a call of shots fired and found an unoccupied blue BMW it had its engine running. The officers checked a nearby garage and saw a subject inside the garage. The officers identified themselves and ordered the subject to show his hands. The subject rose from a crouched position and advance quickly toward the officer in an aggressive manner, pointing a shiny metal object and screaming profanities. The officer believed the subject was holding a gun and discharged his weapon one time striking the subject in the chest. It was discovered the subject was holding a socket wrench.
- b. The subject refused to be interviewed.
- c. The shooting was found to be justified.

125. 1043606<sup>120</sup>

- a. Officers were conducting a surveillance on two subjects who were suspects in several murders. The officers followed the subjects to a location and after the subjects left that location the officers heard a radio call that a person had been shot at that location. Believing the subjects may have just committed another murder, the officers immediately tried to stop the vehicle the subjects had entered. As they tried to make a car stop, the subjects immediately shot at the squad car striking one Detective in the leg. Officers returned fire and one of the subjects was killed.
- b. The shooting was found to be justified.

126. 1043812<sup>121</sup>

- a. Officers attempted a car stop on a vehicle that failed to stop for a stop sign. The

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<sup>119</sup> RFC-Lane 065754-66405.

<sup>120</sup> RFC-Lane 066406-67404.

<sup>121</sup> RFC-Lane 067405-67855.

vehicle stopped in a Burger King parking lot and as the officers approached the vehicle, the vehicle fled a short distance when one of the passengers exited the vehicle and ran on foot. The subject jumped over the fence, stumbled and while in a crouched position facing an officer, the subject raises hand with a firearm and pointed the firearm at the officer. Two officers shot at the subject killing him. Two guns were recovered from the subject and other weapons were recovered from the vehicle.

- b. The shooting was found to be justified.

127. 1043911<sup>122</sup>

- a. Officers were on patrol when they saw a subject exit the liquor store. The subject look at the officers and immediately ran in the opposite direction. During the foot pursuit, the subject pointed a gun at the officers and to officers shot at the subject. A replica (airgun) firearm was recovered at the scene.
- b. The subject admitted he had a replica 9mm handgun and marijuana in his possession. Fearing he would be arrested for marijuana he ran from the officers and the gun fell from his waist and when he jumped over the fence. The subject said he was several feet away from the gun when he was shot. The subject told detectives he removed the BB gun so he could throw it and continue running and the officer shot him after they saw him with the gun in his hand.
- c. The shooting was found to be justified.

128. 1046276<sup>123</sup>

- a. At a large gathering in a park a male with dreadlocks had an altercation with another male and fired shots in the air. Officers heard the gunshots and saw the other subject, involved in the altercation and he was holding a pistol with an extended magazine in his right hand. This subject appeared to be pursuing the unknown male with dreadlocks. Officers ordered the man to drop the weapon, but instead he fired once in one of the officer's direction and to officers returned fire, striking the man.
- b. The subject stated he fired his handgun in the direction of the unknown male with dreadlocks and a subject shot him in the leg. The subject said as he chased the unknown male he fired at least one time and as he fired his gun he noticed he fired in the direction of police officers who then shot him and he fell to the ground.
- c. This shooting was found to be justified.

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<sup>122</sup> RFC-Lane 067856-68187.

<sup>123</sup> RFC-Lane 078057-78590.

129. 1046392<sup>124</sup>

- a. Officers were serving a search warrant and shot a pit bull.
- b. This shooting was found to be justified.

130. 1046859<sup>125</sup>

- a. Officers in the unmarked squad car responded on a call of shots fired and located four suspects who matched the description of the subjects involved in call. Officers engaged in a foot pursuit of one of the subjects who had a handgun and when the subject pointed a gun at the officer the officer shot the subject from a distance of approximately 20 feet. The gun was recovered in the other three individuals were not apprehended. The subject died from his wounds.

- b. The shooting was found to be justified.

131. 1046988<sup>126</sup>

- a. Officers responded to a call of shots fired and engaged in a foot chase of a subject who fled from the vehicle while holding his waistband. The subject turned and fired his weapon at a police officer and foot chase continued to the rear staircase of the residence with a subject again pointed his gun at an officer. The suspect sustained two gunshot wounds as a result of the shooting. The suspect's gun was recovered. The suspect was shot in the thigh and died from a cardiac arrest.

- b. This shooting was found to be justified.

132. 1046995<sup>127</sup>

- a. Officers responded on a call of a person with a gun. Officers saw a male walking behind a female with both his arms around the female's neck. Officers approached the subject and told him to release the female but he appeared to tighten his hold on the female's neck. The female pulled away and said, "Get off me, let me go." Officers grabbed the subject in an attempt to pull him away from the female and as the officer struggled with the subject he felt the gun in the waistband of the subject's hands. The other officer tased the subject, but it had no effect. The subject pulled the gun from his waistband and an officer grabbed a gun by the barrel and attempted to redirect it away from his direction. The other officer shot the subject three times, killing him.

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<sup>124</sup> RFC-Lane 078591-78998.

<sup>125</sup> RFC-Lane 078999-79427.

<sup>126</sup> RFC-Lane 079428-79853.

<sup>127</sup> RFC-Lane 079854-80329.

b. The shooting was found to be justified.

133. 1047019<sup>128</sup>

a. A subject attacked two citizens with a knife and officers responded to the scene in response to a request by the fire department. Once on scene, the subject charged to police officers while wielding two knives and one of the officers fired the shots at the subject, striking him in both legs. Despite being shot, the suspect refused to drop the knives, so another officer deployed a Taser and the subject was arrested.

b. The shooting was found to be justified.

134. 1047054<sup>129</sup>

a. Plainclothes officers saw a subject firing a handgun at a group of individuals. The subject saw the officers and ran from the scene. The subject turned and pointed his gun at the officers and one of the officers, who was still inside his vehicle, fired once through the open passenger side window. The subject then ran into Nally and shot at the officers again. The officers again shot at a suspect and found him collapsed a short distance away. The suspect's gun was recovered and a suspect died as result of his wounds.

b. The shooting was found to be justified.

135. 1047225<sup>130</sup>

a. Officers on bicycles responded to assist other officers who had stop the subject. The subject suddenly fled on foot and was pursued by the bicycle officers. An officer saw the subject holding a firearm and the subject raised right arm and pointed the firearm at the officer. The officer fired three times at the subject, the subject dropped the firearm and fell to the ground. The firearm was recovered.

b. The shooting was found to be justified.

136. 1047231<sup>131</sup>

a. Officers responded on a call of a subject who was shooting out car windows. The officers located a subject who matched the description of the suspect and when they attempted to contact him he fled on foot. The suspect pulled a handgun from his waistband, pointed it at the officer and the officer fired six rounds at the

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<sup>128</sup> RFC-Lane 080330-80866.

<sup>129</sup> RFC-Lane 080867-81316.

<sup>130</sup> RFC-Lane 081317-82128.

<sup>131</sup> RFC-Lane 082129-82515.

subject. The gun was discovered to be a replica firearm.

- b. The subject refused to be interviewed, but admitted to medical personnel at the hospital he had been shooting a pellet gun.
- c. The shooting was found to be justified.

137. 1047258<sup>132</sup>

- a. An off-duty officer driving a take-home unmarked patrol car came across a vehicle collision. When the off-duty officer stopped, one of the drivers approach the officer with his right hand hidden in his waistband, screaming words to the effect of, "What are you going to do about it?" The subject opened the officer's driver's door and reached into the vehicle and the officer, who was still seated in the driver seat, drew his handgun. The officer saw the subject raise right hand and believing the subject had a weapon, fired once, striking the subject left hand. The subject admitted he was high on PCP and no weapon was recovered.

- b. The shooting was found to be justified.

138. 1047430<sup>133</sup>

- a. Officers responded on a domestic disturbance involving a dispute over money and a threat with a knife. The officers attempted to handcuff the subject, but the subject pulled away. The officers deployed OC spray and the subject tackled an officer and repeatedly punched him on the head. An officer felt the subject pulling at his handgun during the struggle and the officer gained control of his gun and fired one shot at the subject striking him in the chest. The suspect died from his injuries.

- b. The shooting was found to be justified.

139. 1047919<sup>134</sup>

- a. Officers heard the sound of gunfire and saw two subjects riding bicycles. The officers followed the bicyclists and when the bicyclists split up, they followed the bicyclists who had his hand on his waistband. The bicyclists abandoned his bike and fled on foot. An officer saw the subject pull gun out of his waistband and pointed a gun at the officers' vehicle. The officer fired from inside his police vehicle striking the subject.
- b. The subject's gun was recovered, tested for DNA and DNA matched the subject. The subject pled guilty to aggravated discharge of a firearm and two

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<sup>132</sup> RFC-Lane 082516-82895.

<sup>133</sup> RFC-Lane 082896-83307.

<sup>134</sup> RFC-Lane 083308-83834.

counts of aggravated assault against the peace officer and was sentenced to 14 years.

- c. The shooting was found to be justified.

140. 1048015<sup>135</sup>

- a. Officers responded on a possible DUI and found a subject sleeping inside his vehicle. Officers saw a handgun on the center console of the vehicle and as the officers attempted to get the driver out of the vehicle, the driver awoke and drove off. Officers engaged in a vehicle pursuit and as he approached the vehicle the subject pointed a gun and an officer fired his weapon one striking the subject in his right arm.

- b. The shooting was found to be justified.

141. 1048096<sup>136</sup>

- a. Officers received information from a confidential informant the guns were being hidden in an abandoned building. While officers were searching the building, one officer remained outside and saw a subject crawl under the rear porch of the building and then exit holding an L-shaped object that appeared to be a gun wrapped inside the towel. Officers ran toward the subject and as they did so the subject lifted his hand from under his shirt. The officer believed the subject was drawing a gun, so he fired three or four times striking the subject on his chest and hand. Neither a gun nor a towel were recovered.

- b. The shooting was found to be justified.

142. 1048485<sup>137</sup>

- a. Officers saw a subject holding his waistband as he walked and when the officer called out the subject, the subject immediately turned and ran away. Officers engaged in a foot pursuit and as he ran, the subject turned and pointed a handgun at an officer who shot at a subject four times, striking him twice. The subject's gun was recovered. The subject admitted he ran from the police because he had a handgun, but stated he never pointed the gun at the officer.

- b. The shooting was found to be justified.

143. 1048560<sup>138</sup>

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<sup>135</sup> RFC-Lane 083835-84694.

<sup>136</sup> RFC-Lane 084695-85034.

<sup>137</sup> RFC-Lane 085035-85673.

<sup>138</sup> RFC-Lane 085674-86400.

- a. Officers were in the area of a shooting and the first officers to respond to the scene provided a vehicle description. Officers located the vehicle and the driver of the vehicle began to shoot at them. The officers then engaged in a running gun battle with the suspect with the suspect fired 10 rounds at the officers. The suspect died from his wounds.
- b. The shooting was found to be justified.

144. 1048814<sup>139</sup>

- a. A prostitute told officers that she had just been robbed and the officers took her with them as they searched for the suspect vehicle. The officers located the suspect vehicle and as the officer approached the vehicle the suspect pointed a weapon at the officer. The officer fired his gun at the suspect and the suspect sped away from the scene. The suspect was later located and was identified by the officer and the prostitute. The suspect had an apparent gunshot wound to his left shoulder, but the suspect claimed it was a spider bite. The suspect then recanted his statement and said the officer shot at him, but he denied firing at the officer or having a weapon.
- b. The shooting was found to be justified.

145. 1048969<sup>140</sup>

- a. Officers saw several suspicious subjects and one of the subject ran from them with his hands positioned on his waistband. An officer ordered the suspect to show his hands, but the suspect continued to hold his hands at his waistband. The subject jumped over a fence and then stood up with his hands still in his pockets as he faced the officer. The officer believed the suspect had a gun and fired one time striking the subject in the left abdomen. A weapon was not recovered.
- b. The shooting was found to be justified.

146. 1049811<sup>141</sup>

- a. An off-duty officer was standing on the street with several other subjects when a suspect drove up and fired several shots striking three victims who were standing on the sidewalk. The off-duty officer witnessed the shooting and returned fire. A video shows the officer shooting at the vehicle of a witness as the witness drove away. The officer shot 16 rounds at the wrong vehicle wounding a witness to the shooting.

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<sup>139</sup> RFC-Lane 086740-87154.

<sup>140</sup> RFC-Lane 087155-87676.

<sup>141</sup> RFC-Lane 087677-88617.

b. Allegations against the officer for inattention to duty for failing to identify the appropriate target were sustained. Allegations against the officer for providing a false statement regarding the shooting were also sustained.

147. 1050184<sup>142</sup>

a. A subject was observed burglarizing railroad boxcars and a vehicle pursuit ensued. During the pursuit, the suspect stopped his car, jumped out and ran on foot. An officer said this suspect pointed a firearm at him and fired one shot at the suspect. Another officer saw the suspect pointing a firearm and also fired one shot at the suspect. The suspect continued to flee and again pointed a gun at the officers and the officers shot suspect. The suspect was eventually located on the roof of the church and he had suffered a gunshot wound to the leg. The suspect's firearm was not recovered.

b. The shooting was found to be justified.

148. 1050244<sup>143</sup>

a. Officers were aware of a pattern of vehicle hijackings at car dealerships and saw a vehicle that had markings that indicated he had recently been at a used car dealership. The officers attempted to stop the vehicle, the vehicle slowed, and the doors opened as if the passengers were about to exit the vehicle; however, the driver continued driving into the vehicle struck the building and came to a stop. Officers pursued the driver of the vehicle on foot and an officer confronted the driver who punched the officer in the face. The officer and the subject began to struggle, and the officer fired three rounds in the direction of the driver. The officer said the subject repeatedly struck her on the head and grabbed at her gun belt. The suspect died at the scene.

b. The shooting was found to be justified.

149. 1050281<sup>144</sup>

a. An off-duty officer was at a bar when he saw three subjects get into a fight. The fight was broken up by bouncers and the subjects were escorted out of the bar. Two of the subjects entered a vehicle and the third walked away. The vehicle made a U-turn and drove toward the third subject as though they were trying to run him over. The vehicle came to a stop in the passenger exit the vehicle and a bouncer from another bar grabbed the subject. The driver of the vehicle pointed a gun at a bouncer and then pointed the gun at the off-duty officer. The off-duty officer fired 4-6 shots at the driver and the driver fled.

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<sup>142</sup> RFC-Lane 088618-89481.

<sup>143</sup> RFC-Lane 089482-90005.

<sup>144</sup> RFC-Lane 090006-90507.

b. The shooting was found to be justified.

150. 1050626<sup>145</sup>

a. Officers responded on a call of a man with a gun. The subject was at a CTA pink line station and repeatedly pointed a gun in the air and he himself several times about the head and chest with the gun, stating he wanted to kill himself. A sergeant spoke with the subject in an effort to persuade him to drop the gun and surrender for approximately 15 minutes. The subject raised the gun above his head and then pointed it in the direction of the officers. One officer shot at a subject who died from his wounds.

b. The shooting was found to be justified.

151. 1050998<sup>146</sup>

a. Officers on patrol heard gunshots and as they approached the area where they heard the shots, they heard two additional gunshots. Officers observed a subject with a gun in his hand and ordered the subject to drop the gun. Instead, the subject ran down some stairs to the basement door and then pointed his gun at one of the officers. The officer shot at the subject who fell inside the basement floor. The gun was recovered.

b. The shooting was found to be justified.

152. 1051127<sup>147</sup>

a. Officers responded on a call of a domestic violence where the wife reported her husband was intoxicated and armed with a handgun. The subject exited the basement and was directed by officers to drop the gun, but raise the gun and pointed it at an officer who fired his gun one time striking the subject on his left side.

b. The subject later denied he pointed a gun at the officers and claimed the officers stole \$300 from him. The \$300 was determined to be inventoried as part of the subject's property.

c. The shooting was found to be justified.

153. 1051844<sup>148</sup>

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<sup>145</sup> RFC-Lane 090508-91315.

<sup>146</sup> RFC-Lane 091316-91855.

<sup>147</sup> RFC-Lane 091856-92282.

<sup>148</sup> RFC-Lane 092283-92704.

- a. An off-duty officer was at home when his wife heard a noise to the rear of the property and saw two suspicious males in black clothing. The officer put on his police uniform and he and his wife drove to the rear alley. At the alley, he saw a white van ran his garage door and then back up and ran his vehicle. The off-duty officer contacted the driver, identified himself as a police officer, and told him he was under arrest for damage to the property. The van moved forward causing the off-duty officer to fall to the ground. The driver then that the van into the officer's vehicle, the officer stood up raised his weapon and ordered the driver to stop. The subject then drove toward the officer again and because the driver had already struck him once and because the vehicle was driving toward him he fired two rounds at the driver, killing the driver.
- b. The shooting was found to be justified.

154. 1051993<sup>149</sup>

- a. Officers responded to a call of a man with a gun. The officers saw three individuals fully and he pursued the individuals on foot. The officers engaged in a struggle with the subject and an officer felt what she believed was a gun in the subjects clothing. The officer yelled out, "Gun" and the subject fired his gun. The subject then pointed the gun at another officer fired three rounds at the subject striking him on the hip, leg and shoulder. The subjects shot struck one of the officers on his hand. The suspect's gun was recovered.
- b. The shooting was found to be justified.

155. 1052142<sup>150</sup>

- a. An officer actually discharged his weapon to strike himself in the lower right leg and foot.
- b. Allegations against the officer were sustained.

156. 1052241<sup>151</sup>

- a. An off-duty officer was working security at a restaurant when subjects inside the restaurant had a verbal confrontation with the waiter. As a sub is relieving they made a Latin Team street gang sign, so the officer evolved into the parking lot to ensure they left the area. The subject drove toward the officer and the officer was able to get out of the way of the vehicle. The driver then put his vehicle in reverse and stand again toward the officer who could not see due to a wooden fence. The officer fired three shots at the driver side windshield and was knocked to the ground. The vehicle drove out of the parking lot and came

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<sup>149</sup> RFC-Lane 092705-93229.

<sup>150</sup> RFC-Lane 093230-93329.

<sup>151</sup> RFC-Lane 09330-94073.

to a stop. Believing the vehicle was going to back toward him again the officer fired two additional rounds. Video surveillance confirmed the officer statements that the subject was driving toward him.

- b. This shooting was found to be justified.

157. 1052718<sup>152</sup>

- a. An off-duty officer was driving in his neighborhood and yelled at several subjects to be quiet. One of the subjects pulled the gun from his waistband and extended his arm toward the officer and the officer said, "Please don't, police, police." The subject walked toward the officer's vehicle with the gun in his hand in his arm extended and the officer fired five shots from his open driver's side window. The subject and a female who was at the scene were both shot.
- b. Allegations against the officer for failure to qualify, his use of deadly force against the subject and firing into a crowd were all sustained.

158. 1052788<sup>153</sup>

- a. Patrol officer saw two subjects with her faces concealed by masks and when they attempted to contact the subjects they fled on foot. During the pursuit when the subjects pulled a sawed-off shotgun from his waistband and pointed it toward the officers. Officers fired at the subject multiple times and the subject dropped the shotgun and continued to run from the scene. As a subject ran he again reached for his waistband and believing the subject was in possession of a second weapon the officer fired additional rounds at the subject who then fell to the ground. The subject admitted they were gang members looking for other gang members in order to shoot them and that they were both armed with firearms.
- b. The shooting was found to be justified.

159. 1052843<sup>154</sup>

- a. Officers responded to a call of a theft in progress at the rear of an abandoned building. The officers located a bag that contained what appeared to be a police department computer and then saw a subject who was holding a flashlight. The officer conducted a patdown search and saw a gun in the subject's waistband. The subject then began to struggle with the officer, and raised his gun toward the officer when two officers fired at the subject. The subject died at the scene. A firearm was recovered.

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<sup>152</sup> RFC-Lane 094074-96266.

<sup>153</sup> RFC-Lane 096267-96950.

<sup>154</sup> RFC-Lane 096951-97323.

b. The shooting was found to be justified.

160. 1053106<sup>155</sup>

a. The officer dropped her purse and her weapon which was inside her purse discharge one striking her in the thigh.

b. Allegations against the officer were sustained.

161. 1054068<sup>156</sup>

a. Officers responded to a noise disturbance and upon their arrival one of the subjects fled on foot from the scene. During the foot chase, the subject turned around and pointed a firearm at the officer and the officer fired at a subject to times. The subject continued to flee and turned around again and again pointed a firearm at the officer who fired several more rounds. The subject was eventually located hiding in a shed.

b. The shooting was found to be justified.

162. 1054291<sup>157</sup>

a. Officers responded to a call to subjects walking on the train tracks carrying a firearm. When the officers arrived in the area, they saw a subject jumped over the fence, looked toward them, then reached over the fence and grabbed a black assault rifle that was being handed to him by a second subject. Both subjects then fled on foot and the officers pursued them. One of the subjects pointed the assault rifle at the officer and the officer fired one round for the subject. Both subjects turned around and continued to run. The subject turned toward the officers a second time and again pointed the assault rifle in their direction and the officer fired a second round. Other officers responded into the area and eventually located the subject and the assault rifle was recovered.

b. The shooting was found to be justified.

163. 1054870<sup>158</sup>

a. Officers saw four subjects, one of whom had a gun. As the officers approached, the subjects fled on foot and a foot pursuit ensued. During the foot pursuit, the subject raised gun in the direction of the officer and the officer fired seven rounds striking the subject in the leg. The subject through the gun in an unknown direction and continue to flee, but was later located and arrested.

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<sup>155</sup> RFC-Lane 097324-97595.

<sup>156</sup> RFC-Lane 097596-98127.

<sup>157</sup> RFC-Lane 098128-98528.

<sup>158</sup> RFC-Lane 098529-99196.

b. The shooting was found to be justified.

164. 1055355<sup>159</sup>

a. Officers on patrol saw a subject running at a fast pace while fumbling with the waste of his pants. The subject tried to climb a fence, then turned around and pointed a gun at an officer and the officer shot at the subject. The gun was recovered at the scene and the subject died at the scene.

b. The shooting was found to be justified.

165. 1056092<sup>160</sup>

a. Officers were serving the search warrant when a pitbull charged toward one of the officers. The officer shot the pitbull and shrapnel from the bullet struck another officer.

b. The shooting of the vehicle was found to be justified and the shrapnel striking the other officer was determined to be accidental.

166. 1056182<sup>161</sup>

a. Officers run patrol when he heard gunshots and saw muzzle flashes nearby. The officer site subject taking a bicycle and placing a firearm in the waistband of his pants. The subject shot at the officers and the officers returned fire. The subject was able to escape, but his handgun was recovered. The city was later arrested and discovered he sustained a graze wound to his leg.

b. The shooting was determined to be justified.

167. 1056189<sup>162</sup>

a. Officer assisting narcotic surveillance scene saw a subject fire a gun and the subject began to fire for the rear of the officer's vehicle. The officer exited his vehicle giving the subject commands, the subject continued fire his weapon toward several males standing in front of a store. The subject then turned and pointed the gun at the officer and the officer shot a subject. The subject fled, but was later discovered lying dead in several subjects around him. Firearm was not recovered.

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<sup>159</sup> RFC-Lane 099197-99599.

<sup>160</sup> RFC-Lane 099600-99878.

<sup>161</sup> RFC-Lane 099879-100723.

<sup>162</sup> RFC-Lane 100724-101751.

- b. The shooting was determined to be justified.

168. 1056391<sup>163</sup>

- a. A subject called 911 four times and inform the dispatcher he intended to commit an act of terrorism by intentionally crashing his vehicle into another car and an attacking the responding emergency personnel. Within minutes, the subject used vehicle to crash into another vehicle. A security guard stopped to assist at the collision and the subject stabbed her in the upper back. When the officers arrived the subject was waiving the knife and telling the officers he was a terrorist and shoot him in the head. The subject aggressively approached the officer and the officer retreated while giving warnings. The subject continued to approach the officer and the officer fired one round striking the subject in the hip.

- b. This shooting was found to be justified.

169. 1056520<sup>164</sup>

- a. Officers responded to a call of shots fired and when they arrived in the area they attempted to stop a vehicle traveling at a high speed. The driver failed to yield any pursuit ensued. At the termination of the pursuit the suspect fled on foot. Officer chase the subject on foot and negligently discharged his firearm during a foot pursuit.

- b. Allegations against the officer were sustained.

170. 1056654<sup>165</sup>

- a. Officers responded to a call of shots being fired from a white Cadillac SUV. As they drove in the area, officers saw a subject fire a gun and then flee on foot. The subject fired a round at an officer and the officer returned fire two rounds. The officer then fired additional rounds at the subject. The subject was apprehended and was wounded on his leg and buttocks and a pistol was recovered. The subject was later charged with homicide based on the shooting that occurred moments before the officers contacted the subject.

- b. This shooting was determined to be justified.

171. 1056696<sup>166</sup>

- a. Officers responded on a call of a person shot. On their arrival, they found a subject walking near the intersection where the person was reported to have

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<sup>163</sup> RFC-Lane 101752-102809.

<sup>164</sup> RFC-Lane 102810-103248.

<sup>165</sup> RFC-Lane 103249-104198.

<sup>166</sup> RFC-Lane 104199-104651.

been shot. The subject appeared nervous and sweaty and fidgeted at his waistband as he continued to walk. The officers fall the subject and the subject drew a handgun from his waistband and pointed a gun at an officer. The officer fired a subject one time striking the subject in the buttocks. The subject's gun was recovered.

- b. This shooting was found to be justified.

172. 1056697<sup>167</sup>

- a. Officers received information that there were people at a park with guns. Officers observed two individuals reach for something in their waistband's and told the individuals to place their hands on the hood of the squad car. The suspects ran from the officers. As they ran, the suspect pointed a gun and shot at one of the officers. The officer returned fire and the suspect stopped running, laid on the ground, and was taken into custody. The officer was shot in the leg.

- b. The shooting was found to be justified.

173. 1056786<sup>168</sup>

- a. Officers were on patrol in a housing complex when they observed the subject leaning against the fence. The subject stood up and the officers noticed the subject may have an object under his shirt. The subject entered a dumpster and was seen crossing down behind a dumpster holding a gun. The subject raised the firearm at the officers, an officer shot at the subject, striking him in the feet.

- b. This shooting was found to be justified.

174. 1056802<sup>169</sup>

- a. Officers were contacting a subject for a curfew violation and the subject ran from the officers. The officers engaged in a foot pursuit and during the foot pursuit the subject removed a gun from his back pants pocket and fired the gun at one of the officers. Officers returned fire and the suspect sustained multiple gunshot wounds.

- b. The shooting was found to be justified.

175. 1056889<sup>170</sup>

- a. Plainclothes officer saw a van driving slowly with its rear passenger sliding door

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<sup>167</sup> RFC-Lane 104652-107770.

<sup>168</sup> RFC-Lane 107771-108491.

<sup>169</sup> RFC-Lane 108492-108857.

<sup>170</sup> RFC-Lane 108858-109580.

open by a newly opened social club, where a large group were standing. Officers believed the behavior of the van was consistent with a possible drive by shooting and as a pulled behind the van the sliding door closed and the band again in the area. A subject exited the van and pointed a gun in the officer's direction and an officer fired around at the subject. Another officer fired additional rounds. Additional officers shot of the suspect as a foot pursuit continued. The suspect was eventually apprehended and suffered a gunshot wound to the arm. The suspect's gun was recovered.

- b. The shooting was found to be justified.

176. 1056931<sup>171</sup>

- a. Officers responded to an armed robbery in progress. Officers located a subject who matched the description of the subject, fidgeting with his waistband. The officers gave commands for the subject show his hands, but the subject drew a handgun, pointed it at the officers and threatened to kill them. The officers shot the suspect.
- b. The shooting was determined to be justified.

177. 1056933<sup>172</sup>

- a. Officers were on routine patrol when they heard gunshots. The officers located a group of individuals and maintained a surveillance on the subjects. The officers saw a subject with what appeared to be a firearm with an extended magazine under his shirt. The officer gave the subject commands, but the subject drew the firearm and pointed it at the officer. The officer fired for time striking the subject. The firearm was recovered.
- b. The shooting was determined to be justified.

178. 1057097<sup>173</sup>

- a. Officers responded on a call regarding a man with a gun. The officers attempted to contact a subject who matched the description, but the subject ran from the scene and Officer chase him. During the pursuit, the subject turned around, pointed the gun at an officer and the officer fired twice at the subject striking him.
- b. The shooting was found to be justified.

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<sup>171</sup> RFC-Lane 109581-111526.

<sup>172</sup> RFC-Lane 111527-111911.

<sup>173</sup> RFC-Lane 111912-112790.

179. 1057285<sup>174</sup>

- a. Officers observed three individuals whom they believed to be curfew violators. The subject ran from the officers and were able to detain one of the subjects whom they believe may be armed. Was they determined that subject was not armed he was released and the officer searched for the other two individuals. The officers found another individual who was holding an object and refused to drop the object when commanded to do so. An officer fired one round striking the subject in his arm and was determined that he had been holding a dark colored tire iron.
- b. The shooting was determined to be justified.

180. 1057748<sup>175</sup>

- a. Officers were assigned to an area due to a high number of robberies. The officers saw three suspicious subjects and one of the subjects fled on foot from the officers. During the foot pursuit, the subject pointed a pistol at the officer and the officer fired three rounds in the direction of the suspect. The suspect turned back with the officer a second time in the officer fired two additional rounds. The suspect was apprehended and had been shot in the left hip. The officers located the suspect's handgun in the backyard of his residence which was next to where he was shot.
- b. The shooting was found to be justified.

181. 1057905<sup>176</sup>

- a. Officers responded to a call regarding two shooting victims, one of whom died from their wounds. While en route to the call, the officer saw a subject who matched the description of the offender and attempted to stop it. The suspect fled and the officers engaged in a foot pursuit. The suspect turned and fired his gun in the direction of the officers and to officers fired at a subject who is struck once in the abdomen.
- b. The shooting was found to be justified.

182. 1058000<sup>177</sup>

- a. Officers were in an unmarked squad car when they heard several gunshots and heard another officer radioing, "shots fired." Officers saw a vehicle driving from the area and "fishtailed" when making a turn. The officers stopped the

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<sup>174</sup> RFC-Lane 112791-113508.

<sup>175</sup> RFC-Lane 113509-113828.

<sup>176</sup> RFC-Lane 113829-115298.

<sup>177</sup> RFC-Lane 115299-115716.

vehicle and the driver exit the vehicle holding a gun in his hand. An officer engaged in a foot pursuit and the subject pointed the gun at the officer. The officer fired one round at the subject who then again pointed his gun at the officer. The officer fired two additional rounds. The suspect received a gunshot wound to his right cheek and to the rear of his right shoulder. The gun was recovered.

- b. The shooting was found to be justified.

183. 1058078<sup>178</sup>

- a. A subject flagged down officers and reported he was just a victim of an armed robbery. The victim provided a description of the suspect who was quickly located nearby. The suspect had both hands typed in his waistband and refused the officers' commands. A foot pursuit ensued, and the subject pointed a gun and shot at an officer. The suspect ran away again, but was clenching his waistband. The officer believed the suspect was going to shoot at him again, so he shot at the suspect a single time striking him in the head, killing the suspect.

- b. The shooting was found to be justified.

184. 1058187<sup>179</sup>

- a. Officers were flagged down by an Illinois State Police Trooper who requested their assistance in locating a vehicle involved in a child at the action. The officers located the vehicle in the parking lot of a restaurant. An officer exited his vehicle, ran in front of the suspect vehicle and ordered the driver to stop. The driver accelerated toward the officer, and struck the officer who landed on the hood of the vehicle. The officer fired four times at the driver and the driver continued to drive at a high rate of speed and crashed into concrete posts. The suspect suffered several gunshot wounds and a child was located in the rear of the vehicle.

- b. The shooting was found to be justified.

185. 1058714<sup>180</sup>

- a. An off-duty officer witnessed a traffic collision where a subject struck a light pole, drove on to the sidewalk, struck a pedestrian, before crashing into the concrete wall. The officer approached the vehicle and ordered the driver to exit the vehicle. The driver placed the vehicle in reverse and accelerated toward the officer who fired his firearm once the driver. The driver continued to drive backward striking the passenger side of the officer's vehicle. The driver then

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<sup>178</sup> RFC-Lane 115717-116198.

<sup>179</sup> RFC-Lane 116199-116997.

<sup>180</sup> RFC-Lane 116998-117511.

attempted to drive directly forward at the officer who discharged his firearm several more times at the driver. The driver was struck with one round to the wrist.

- b. The shooting was found to be justified.

186. 1058935<sup>181</sup>

- a. An off-duty officer parked his vehicle and was retrieving his two-year-old son from the backseat when he was robbed at gunpoint. The officer was able to draw his firearm, announced that he was a police officer, and shot at the suspect. The suspect returned fired striking the officer in the upper left chest and left forearm. The officer was able to fire seven times and the suspect fired five times. The suspect fled the scene but was later arrested and discovered he had sustained a gunshot wound to the left lower leg.

- b. The shooting was found to be justified.

187. 1059058<sup>182</sup>

- a. Plainclothes officers saw a suspicious subject holding his side and as they attempted to contact the subject he immediately fled on foot. Other officers responded into the area and located the subject in a crouching position with a gun in his hand. Officers ordered the subject to drop the gun, but he did not comply, so the officer fired his weapon for time striking the subject once in the upper left back. The gun was recovered.

- b. This shooting was found to be justified.

188. 1059194<sup>183</sup>

- a. Officers responded to a man with a gun call. Two officers went to the rear of the residence and the suspect pointed the gun at them. An officer shot three rounds at the suspect striking him on the hip and buttock. The gun was recovered.

- b. The shooting was found to be justified.

189. 1059342<sup>184</sup>

- a. Officers made a car stop for a red-light violation. While reaching to the center

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<sup>181</sup> RFC-Lane 117512-118099.

<sup>182</sup> RFC-Lane 118810-119228.

<sup>183</sup> RFC-Lane 119229-119632.

<sup>184</sup> RFC-Lane 119633-120048.

console for his license and insurance, the driver made a suspicious movement toward his waistband, so the officer asked him to exit his vehicle. The officer attempted to conduct a patdown search, but the driver prevented him from doing so by pushing his waist tightly against the vehicle. The driver was able to reenter his vehicle while an officer entered the passenger side of the vehicle in an attempt to stop a driver from placing the vehicle into gear. The officer subject began wrestling for the weapon as the vehicle began to move. The officer fired two shots toward the stomach area of the driver.

- b. This shooting was found to be justified.

190. 1071166<sup>185</sup>

- a. An officer received information two subjects were in possession of firearms and when several officers attempted to contact the subjects one of them fled on foot. An officer saw the subject caring a handgun in his right hand and gave commands to drop the gun. The subject pointed a gun at an officer and the officer fired three times at the subject, striking him. The firearm was recovered.
- b. The shooting was found to be justified.

191. 1044135<sup>186</sup>

- a. Officers were dispatched to a shots fired call and when they arrived in the area they saw a subject flee on foot. During the pursuit, the subject pulled a handgun from his waistband and pointed it at the officer. The officer fired one time, striking the subject causing him to fall to the ground. While on the ground, the subject again threatened the officer with his gun, so the officer fired again. The subject admitted he possessed a handgun and the gun was recovered.
- b. The shooting was found to be justified.

192. 1044298<sup>187</sup>

- a. Officers on patrol contacted by a citizen who told them that two armed men entered his garage and threatened him with handguns. The officers placed the individual in the back of the squad car to search for the offenders. The officer saw the subjects running and that they were both arms handguns. One of the subject stop, turned toward the officers, and shot at the officers. Two officers returned fire. The subject died from his wounds.

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<sup>185</sup> FCRL 003789-3953, 3977-3994, 4092-4515, 4697-5322.

<sup>186</sup> RFC-Lane 068188-68612.

<sup>187</sup> RFC-Lane 068613-69269.

b. The shooting was found to be justified.

193. 1044594<sup>188</sup>

a. Officers responded to a shots fired call. The officers located a suspicious subject who fled from the officers and the officers engaged in a foot pursuit. During the foot pursuit, an officer struck the subject with the front of the police vehicle, knocking subject to the ground. The city got to his feet and pulled a 12gauge shotgun from underneath his clothing and pointed it at the officer. The officer fired three rounds of the subject, striking him in the right thigh.

b. The shooting was found to be justified.

194. 1044669<sup>189</sup>

a. Officers received a call of a suspicious person ringing doorbells. As they responded into the area, the officers heard several gunshots. The officers located a suspicious subject who ran from the officers and the officers engaged in a foot pursuit. The subject raised his right hand with a handgun and pointed it at the officer. The officer fired two shots at the suspect. The suspect's gun was recovered.

b. The shooting was found to be justified.

195. 1044816<sup>190</sup>

a. Officers received a call of a robbery in progress at a Family Dollar Store. Officers entered the store and encountered a subject who claimed he was a customer. When asked to show his hands, the suspect retreated further into the store and appeared to be reaching into his waistband. A Taser was deployed, but he did not have any effect. The subject produced a firearm and fired it at the officers and the officers exchanged gunfire with the suspect. The suspect died at the scene.

b. The shooting was found to be justified.

196. 1044989<sup>191</sup>

a. An off-duty officer saw a subject brandishing a handgun behind his home. The subject attempted to rob the off-duty officer and another subject and the officer ran back inside his home to retrieve his weapon. When the officer returned

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<sup>188</sup> RFC-Lane 069270-69770.

<sup>189</sup> RFC-Lane 069771-70964.

<sup>190</sup> RFC-Lane 070965-71683.

<sup>191</sup> RFC-Lane 071684-72038.

outside after telling his roommate to call 911, he saw the suspect holding a gun to a subject's head and robbing him. The off-duty officer shot several rounds at the suspect. The suspect admitted to robbing the individual with a BB gun.

- b. The shooting was found to be justified.

197. 1045186<sup>192</sup>

- a. An officer suicide by use of a handgun.

198. 1045332<sup>193</sup>

- a. Officers responded on a call of a man with a gun. Officers responded into the area and found the suspect vehicle. A subject fled from the vehicle on foot and officers engaged in a foot pursuit. During the foot pursuit, the subject pointed his gun in the direction of the officer and the officer fired one round at a suspect who falls the ground. Another officer saw the subject was still in possession of a gun and discharged two rounds at the suspect. The gun was recovered.

- b. The shooting was found to be justified.

199. 1045473<sup>194</sup>

- a. Officers responded to a robbery that had just occurred. As they arrived in the area, the victim flagged down and identified the suspects. As the officers approached the suspect, one of the suspects turned for the officer and drew a hand from his waistband and ran toward the officer with a weapon. The officer fired one round striking the suspect in the upper left shoulder. The weapon was recovered.

- b. The shooting was found to be justified.

200. 1045668<sup>195</sup>

- a. A subject entered a McDonald's restaurant and committed an armed robbery. Later, a pursuit the suspect vehicle ensued. An officer believing the suspect vehicle was coming to a stop in a gas station exited his vehicle. Rather than bringing the vehicle to a stop, the driver accelerated the vehicle in the direction of the officer and the officer shot at the driver, striking her two times.

- b. The shooting was found to be justified.

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<sup>192</sup> RFC-Lane 072039-72103.

<sup>193</sup> RFC-Lane 072104-72544.

<sup>194</sup> RFC-Lane 072545-72863.

<sup>195</sup> RFC-Lane 072864-73335.

201. 1045673<sup>196</sup>

- a. Officer saw two suspicious subjects enter a convenience store. The officers saw the subject inside the store display a weapon and demand money from the store clerk. The officers confronted the suspect's and one of the suspects shot his gun at the officers. The officers returned fire and struck the suspect, fatally wounding him.
- b. The shooting was found to be justified.

202. 1045750<sup>197</sup>

- a. Officers pursued a vehicle after observing the rear passenger point handgun out of the window. The pursuit ended in an alley and the rear passenger exit from the driver side of the vehicle and pointed handgun at officers. An officer fired three shots at suspect. The suspect ran into a rear yard work pointed his gun at another officer. That officer fired two shots at the suspect. The gun was recovered.
- b. The shooting was found to be justified.

203. 1045759<sup>198</sup>

- a. An off-duty officer saw a subject shooting a handgun and get onto a bicycle. The off-duty officer pursued the suspect, was able to confront the suspect, place a suspect on the ground and recovered the suspect's handgun. The off-duty officer had his knee on the suspect's back and was able to use his cell phone to call for assistance. The suspect told the officer, "When I get my wind, I'm going to take the gun away from you." The suspect then began to struggle with the officer and tried to take control of the officer's gun. The off-duty officer fired his gun during the struggle. On-duty officers arrived and took the suspect into custody and the suspect suffered a graze wound to his finger.
- b. The shooting was found to be justified.

204. 1045896<sup>199</sup>

- a. Officers responded to a burglary in progress. Upon their arrival, they saw a male dragging a female by her hair. When the male saw the officers, he fled on foot. The suspect entered a vehicle and officers tried to handcuff the subject through the open door. One officer entered the vehicle on the passenger side and the

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<sup>196</sup> RFC-Lane 073336-74211.

<sup>197</sup> RFC-Lane 074212-74588.

<sup>198</sup> RFC-Lane 074589-74742.

<sup>199</sup> RFC-Lane 075282-75928.

suspect was able to start his vehicle. When the vehicle accelerated, the officer who was situated between the driver's door and the doorframe jumped onto the running board of the vehicle. The driver continued driving forward site swiping the vehicle along a brick building further pending the officer on the running boards. As the vehicle continued to collide with objects, an officer shot at the driver.

- b. The shooting was found to be justified.

205. 1045950<sup>200</sup>

- a. Officers responded on a domestic disturbance where a father was a less to have battered his daughter. On the officer's arrival, the father fled on foot. During the foot pursuit, an officer believes the father turned and pointed a handgun at him, so he shot at the subject. The subject died from his wounds. The subject was not armed with a handgun and possibly had a cell phone in his hand.
- b. Allegations against the officer for excessive force were sustained.

206. 1045998<sup>201</sup>

- a. Officers attempted a car stop for a seatbelt violation. The driver fled and a brief pursuit ensued. The driver exited his vehicle holding a handgun in his right hand. The driver pointed the gun at an officer and the officer fired two shots at the driver. The gun was recovered. The driver admitted he had a firearm in his hand and was attempting to avoid apprehension.
- b. The shooting was found to be justified.

207. 1046175<sup>202</sup>

- a. Officers pursued a vehicle that had been hijacked at gunpoint. After colliding with a tree, the suspect exited his vehicle and fled on foot. An officer caught up with the suspect and tackled him, but the suspect was able to escape. The suspect then tripped an officer believes he was reaching for a gun at his waist, so he shot at the suspect. The suspect died from his wounds. A replica pistol was found at the scene.
- b. The shooting was found to be justified.

208. 1046188<sup>203</sup>

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<sup>200</sup> FCRL 010497-10500, 12694-14018.

<sup>201</sup> RFC-Lane 075929-76280.

<sup>202</sup> RFC-Lane 076281-77152.

<sup>203</sup> RFC-Lane 077153-77728.

- a. Officers were working an area where a homicide had recently occurred and he saw a suspicious subject holding his side and then attempting to gain entry into a building. When the officers stopped the car, the subject ran while holding his side. During the foot pursuit, the subject produced a handgun and pointed it toward an officer and two officers shot at the subject. A handgun was recovered. The subject died from his wounds.
- b. The shooting was found to be justified.

209. 1046240<sup>204</sup>

- a. An off-duty officer was working as a clown for a children's party at a day care center. After the party, the officer still wearing his clown costume walked to his vehicle when two subjects approached him and tried to rob him at gunpoint. A struggle ensued and the officer was able to gain control of the weapon and shoot both suspects. One of the suspects died.
- b. The shooting was found to be justified.

210. 1022791<sup>205</sup>

- a. Officers were on patrol (New Year's Eve) when they heard what sounded to be shots from an automatic weapon. The officers saw a subject walking in an alley armed with an AK-47. One officer approached the subject from the rear and the subject was firing the gun into the air. The officer also saw 5-6 other subjects firing guns. The officer ordered the subject with the AK-47 to drop his weapon and the subject turned toward the officer while simultaneously moving the barrel of the weapon down in the direction of the officer. The officer fired at the subject who then began to flee on foot. The subject was apprehended nearby. Over 50 shell casings were recovered at the scene including 32 from the AK-47. Two other firearms were also found at the scene that were believed to have been in the possession of other subjects. The subject was struck by 7 bullets and survived.
- b. The use of deadly force was found to be justified.

211. 1023165<sup>206</sup>

- a. Five police officers were serving a search warrant, knocked on the door and announced their office several times. After receiving no response, the officers forced open the locked front door and made entry. Officers contacted two subjects in the living room and ordered them to the ground. A bedroom door was covered by a bedsheet and a subject pulled the bedsheet aside. An officer saw the subject

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<sup>204</sup> RFC-Lane 077729-78056.

<sup>205</sup> RFC-Lane 000093-367.

<sup>206</sup> RFC-Lane 000368-898.

was holding a pistol in his right hand. The officer ordered the subject to drop the gun and when he failed to do so, the officer fired one time striking the subject.

- b. The subject's sister, who witnessed the shooting, said the subject pointed a gun at officers.
- c. The subject said he heard noise and went to the living room with his gun. The subject said he was pointing his gun at strangers when they turned toward him, started shouting at him and then he heard a gunshot and felt pain in his stomach.
- d. The shooting was found to be justified.

212. 1023414<sup>207</sup>

- a. An off-duty officer had been experiencing marital problems and failed to report for duty. A supervisor went to the officer's home to check on his well-being and discovered the officer had suffered a self-inflicted gunshot wound and had committed suicide.

213. 1023552<sup>208</sup>

- a. An officer received a .22 caliber handgun from his grandmother to initiate a weapon turn in. Upon returning to his apartment, the officer inspected the weapon and while attempting to re-holster the weapon, the officer accidentally discharged the weapon, striking his left hand.
- b. Allegations against the officer for being inattentive in securing and accidentally discharging weapon were sustained.

214. 1023878<sup>209</sup>

- a. An off-duty officer was walking home when two subjects attempted to rob him. One of the subjects punched him causing him to fall on his back. When the officer fell, his coat came open exposing his firearm that was secured in a shoulder holster. One of the subjects and the officer began to struggle for the weapon and the officer discharged one round at the subject striking him in the thumb. The subjects fled from the scene, but were later apprehended.
- b. An independent witness corroborated the officer's statements.
- c. The shooting was found to be justified.

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<sup>207</sup> RFC-Lane 000899-986.

<sup>208</sup> RFC-Lane 000987-1073.

<sup>209</sup> RFC-Lane 001074-1378.

215. 1024466<sup>210</sup>

- a. Officers were responding to a battery in progress, and as they responded they saw the offender's vehicle traveling in the wrong direction on the roadway. The subject struck the officers' van with his vehicle, put his vehicle in reverse and then struck the officers' vehicle a second time. The subject then fled on foot from his vehicle and pointed a handgun at the officers. The officers fired at the subject and the subject died from his wounds.
- b. The subject's cousin acknowledged the subject was armed with a handgun, but claimed the subject was handcuffed with his hands behind his back when the officer shot him 10 times.
- c. The shooting was found to be justified. The statements by the subject's cousin were found to be inconsistent with the physical evidence.

216. 1024613<sup>211</sup>

- a. An off-duty officer received notification from her alarm company that her residential alarm had been activated. The officer returned home and confronted a subject who was walking downstairs carrying a red bag. The officer identified herself, drew her weapon and told the subject to drop the bag. The subject began reaching into the bag and the officer feared the subject was reaching for a handgun that the officer keeps upstairs. The officer shot at the subject several times and the subject ran out the front door. The officer again ordered the subject to raise his hands and drop the bag. The subject fell on the ground and again began reaching into the bag and the officer shot at the subject again. The subject was then able to flee from the residence, but was later apprehended by other officers.
- b. When interviewed at the hospital, the subject claimed he was shot on a street corner after he became involved in an argument over a drug transaction.
- c. The red bag was located, and item stolen from the officer's house were located inside.
- d. The shooting was found to be justified.

217. 1024645<sup>212</sup>

- a. An officer at the police range accidentally discharged his weapon. The bullet struck the concrete pavement and bullet fragments injured the officer and three others.

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<sup>210</sup> RFC-Lane 001379-1919.

<sup>211</sup> RFC-Lane 002400-2790.

<sup>212</sup> RFC-Lane 002791-2835.

- b. Allegations against the officer for negligently discharging his weapon were sustained.

218. 1026112<sup>213</sup>

- a. An officer was working with the FBI agent on a joint CPD/FBI Task Force. The officer and the FBI agent saw a vehicle matching the description of a vehicle used in several robberies and saw the subject driving the vehicle into a gas station. The subject robbed the gas station and had a handgun in his hand as he exited the station. The officer identified himself, but the subject pointed his pistol in the direction of the officer and the FBI agent who both shot at the subject several times, striking and killing him.
- b. The gas station attendants stated that they were robbed by the subject at gunpoint. Surveillance video inside the store confirms the clerks' statements. There was no video of the exterior of the store or of the shooting.
- c. This shooting was found to be justified.

219. 1026136<sup>214</sup>

- a. Officers on patrol heard gunshots, saw three subjects running, and saw that one of the subjects was holding a handgun. The officers chased the subject, and one officer drove up next to the subject ordering him to drop his weapon. Instead, the subject pointed his gun at the officer and two officers shot the subject striking him several times.
- b. It was later determined that the gunshots initially heard by the officers occurred when the subject shot three subjects and a 67-year-old woman.
- c. This shooting was found to be justified.

220. 1026225<sup>215</sup>

- a. Officers were dispatched to investigate a subject attempting to use a stolen credit card. The suspect attempted to flee in a waiting vehicle, but an officer sprayed OC into the vehicle and the driver fled on foot. The suspect climbed into the driver's seat and began to grab the officer's duty weapon. The suspect would not respond to commands to release weapon and fearing the suspect would disarm the officer, the other officer shot the suspect.
- b. The suspect refused to cooperate with IPRA's investigation.

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<sup>213</sup> RFC-Lane 002836-3225.

<sup>214</sup> RFC-Lane 003226-3804.

<sup>215</sup> RFC-Lane 003805-4487.

c. This shooting was found to be justified.

221. 1026288<sup>216</sup>

- a. Officers were dispatched to a man with a gun. Officers contacted the subject who initially cooperated and as the officer began to pat the subject down, the subject slapped the officer's hands away and fled on foot. The officer chased the subject and during the chase the subject reached into his waistband and grabbed a handgun. The subject pointed the gun at the officer and the officer fired three rounds. The subject dropped the gun to the ground, continued a little further before falling to the ground. The subject received a graze wound to his lower left leg.
- b. In a statement to IPRA, the subject said he ran from the officer because he had cocaine in his pocket. The subject claims he dropped the cocaine as he was running and that he never had a gun.
- c. The shooting was found to be justified.

222. 1026454<sup>217</sup>

- a. Officers saw three vehicles driving the wrong way on a one-way street. The officers saw a subject exit from the passenger side of one of the vehicles and began shooting at another vehicle. The officers ordered the subject to drop his gun and the subject turned toward the officers and pointed a gun in their directions. An officer shot at the subject and the subject sustained a single gunshot wound to his right thigh. Independent witnesses stated they saw the subject shoot a gun at a vehicle and the subject turned toward the officers while holding the gun.
- b. The subject claimed he noticed a vehicle following him and walked up to the vehicle to ask what was being followed. The subject said someone in the vehicle shot one round at him and he fired 2-3 times to defend himself. The subject acknowledged he heard someone say, "Drop it mother fucker, drop it," but said he did not know it was the police. The subject acknowledged he turned his body in the officers' direction while he claimed he was putting his gun down to the ground and said he was shot while putting his gun down.
- c. The shooting was found to be justified.

223. 1026622<sup>218</sup>

- a. Officers on patrol saw a subject holding a bulge in his waistband. An officer identified himself and the subject fled on foot. As he ran, the subject drew a gun, turned, and pointed the gun toward the officer as he continued to run. The officer

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<sup>216</sup> RFC-Lane 004488-4765.

<sup>217</sup> RFC-Lane 004766-5190.

<sup>218</sup> RFC-Lane 005191-5433.

fired two rounds at the subject and the subject threw his gun to the ground and continued running. The subject was apprehended with a gunshot wound to his heel.

- b. In a statement to IPRA, the subject admitted he possessed a handgun and when he heard someone yell, "police" he ran away. The subject said before he reached the alley he dropped the handgun on the ground and he was shot in the foot after he dropped the gun and after he entered the alley.
- c. The shooting was found to be justified.

224. 1026755<sup>219</sup>

- a. Officers engaged in a vehicle pursuit of a stolen vehicle. The pursuit ended when the suspect crashed into a fence and collided into a building. The driver and two passengers fled from the vehicle on foot. An officer chased the driver on foot, was able to catch him and take him to the ground. As the officer was handcuffing the subject, the subject was able to reach up and grab the officer's holster, pull it off of the officer's belt and the officer and the subject began to fight for the gun. During the struggle, the subject repeatedly threatened to kill the officer. The officer was able to regain control of his gun and took a step back away from the subject. The subject lunged at the officer for the gun and the officer fired seven times killing the subject.

- b. This shooting was found to be justified.

225. 1026942<sup>220</sup>

- a. Undercover officers negotiated a drug transaction that involved the purchase of ecstasy. When the suspect arrived, officers conducted a traffic stop. The suspect tried to flee and ran over the foot of an officer. The suspect continued to reverse his vehicle at a high rate of speed, struck a police vehicle and then struck a pole. The suspect then began to rev his engine and drove his vehicle toward three officers who shot at the suspect. The suspect died as result of his injuries.

- b. This shooting was found to be justified.

226. 1027134<sup>221</sup>

- a. An off-duty officer was in his vehicle along with a female passenger when a subject approached the front passenger window, tapped on the window with a handgun and told the officer to get out of the vehicle or he would be shot. The passenger attempted to get in the backseat of the vehicle as the officer pulled out his weapon and the officer and the subject exchanged gunfire. The officer drove from the scene

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<sup>219</sup> RFC-Lane 005434-6045.

<sup>220</sup> RFC-Lane 006046-6939.

<sup>221</sup> RFC-Lane 006940-7541.

and the female exited the vehicle at an unknown location. The officer then went to a District Station to report the crime. The suspect was later located with a gunshot wound to his right thigh.

- b. The suspect claimed that two unidentified black male individuals attempted to rob him of a diamond ring and when he refused, one of the subjects shot him in the leg. The suspect provided conflicting statements and also claimed he approached the officer's vehicle to discourage acts of prostitution in his neighborhood and acknowledged shooting at the officer and said he only shot at the officer because the officer shot at him.
- c. The shooting was found to be justified, but allegations were sustained against the officer for his failure to preserve the crime scene, failure to immediately report the incident, and because there was evidence that the officer was with a prostitute.

227. 1027233<sup>222</sup>

- a. Officers make a traffic stop for speeding and when the officers exited their vehicle, the vehicle fled, and a pursuit ensued. The vehicle came to a stop and the driver fled on foot. One officer chased the driver, but the driver was able to escape. The passenger initially remained inside the vehicle, then fled on foot. Officers observed the subject with a gun in his hand as he ran. One officer was going through a gangway when he was suddenly attacked by the subject and the officer's gun discharged as he was knocked back from the impact. The subject was struck by the gunshot. The subject died from his wound.
- b. The shooting was found to be justified.

228. 1027310<sup>223</sup>

- a. Officers responded to a burglary alarm at school. An employee unlocked a door and allowed the officers access to the school and told the officers he was unusual for a light to be on in a particular room. Officers located a subject who was armed with a rifle. As subject ran, he pointed the gun at the officer. The officer fired one round at the subject. One subject was located and arrested at the school and a second subject was arrested later. The second subject was identified as the subject with the gun and he had suffered a gunshot wound to his leg. The gun was determined to be a BB gun.
- b. The shooting was found to be justified.

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<sup>222</sup> RFC-Lane 007542-8100.

<sup>223</sup> RFC-Lane 008656-9034.

229. 1027383<sup>224</sup>

- a. Officers responded to a call of a drunken subject shooting a gun inside his home. Officers checked the interior of the home, but were unable to locate anyone. Officers were able to locate the subject inside an attic crawlspace. The subject was armed with a handgun and refused to obey commands. The subject pointed the gun at an officer who shot at the subject and another officer shot through the roof at where he believed the suspect to be. The suspect moved further into the crawlspace and SWAT officers responded. SWAT officers were able to locate the subject and discovered he was deceased.
- b. The shooting was found to be justified.

230. 1027721<sup>225</sup>

- a. Officers attempted to contact the subject and as they did, the subject fled on foot. One officer pursued the subject on foot and when they entered the backyard of the residence the subject pulled a handgun out of his waistband and pointed the gun at the officer. The officer fired one round striking the subject.
- b. An independent witness saw the subject just after the shooting and saw a gun on the ground next to him.
- c. The subject received a gunshot wound to the thigh and he refused to give a statement.
- d. The shooting was found to be justified.

231. 1027851<sup>226</sup>

- a. Officers attempted to make a car stop on a vehicle that ran a red light. Unknown to the officers was the fact that the subjects in the vehicle had just committed a robbery and fired shots at the robbery victims. The vehicle came to a stop and the passengers fled on foot. One subject was armed with a handgun, turned toward one of the officers and fired one round. The officer returned fire with four rounds and struck the subject in the calf.
- b. The subject refused to provide a statement.
- c. The shooting was found to be justified.

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<sup>224</sup> RFC-Lane 009035-9726.

<sup>225</sup> RFC-Lane 009727-10052.

<sup>226</sup> RFC-Lane 010053-10457.

232. 1027936<sup>227</sup>

- a. Officers heard gunshots and approached the area on foot. Officers saw a subject shooting at a group of people and the subject and to others then fled on foot. The officers announced their presence and the subject turned and shot at the officers. Two officers returned fire. The subject received a gunshot wound to his finger.
- b. The subject refused to provide a statement.
- c. The shooting was found to be justified.

233. 1028122<sup>228</sup>

- a. Officers were dispatched to a man with a gun call. Officers contacted the subject inside his residence and the subject pointed a gun at the officer. The officer shot at the subject striking him once in the chest, killing him.
- b. The shooting was found to be justified.

234. 1028193<sup>229</sup>

- a. Officers assigned to an FBI task force received information that a subject was in possession of 3 kilograms of cocaine and a handgun. The officers attempted to stop the vehicle, but the driver fled, and a vehicle pursuit ensued. At the conclusion of the pursuit, an officer approached the driver's side of the vehicle, reached inside and the driver backed up the vehicle knocking the officer to the ground. The officer got back up and reached inside the vehicle, and the driver drove forward toward a different officer who had no avenue of escape. That officer fired once through the windshield striking the driver in the chest.
- b. Independent witnesses stating the vehicle was not moving at the time the shooting and that the officer who fired was not in front of the vehicle.
- c. The driver claims his vehicle was parked when he was shot, and he was surrendering to the officers. The driver refused to discuss the pursuit or his possession of narcotics.
- d. Allegations against numerous officers and supervisors were sustained for violations of the department's pursuit policy, supervisors' failure to terminate the pursuit, and officers leaving their assigned area and not notifying the dispatcher of their involvement in the pursuit. Allegations against the shooting officer were sustained for violating the department's deadly force policy.

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<sup>227</sup> RFC-Lane 010458-11119.

<sup>228</sup> RFC-Lane 011120-11482.

<sup>229</sup> RFC-Lane 011483-13783.

235. 1028228<sup>230</sup>

- a. Officers located a vehicle wanted for a jewelry store burglary. The officers tried to block the driver from moving his vehicle with their vehicles. The officers gave the driver commands to raise his hands, he raised his left hand but maintained his right hand in the area of his waist. An officer tried to take control of the driver's left hand and the driver accelerated toward an officer who was standing toward the front of his vehicle. The driver struck the officer and the officer shot at the driver. A second officer fired from the rear of the vehicle toward the driver.
- b. An independent witness saw the driver accelerate toward an officer.
- c. The shooting was found to be justified.

236. 1028237<sup>231</sup>

- a. Officers were conducting a field interview when they heard multiple gunshots. Citizens pointed the officers toward the area where the gunshots occurred, and the officers approached on foot. An officer saw two subjects approaching him with guns in their hands and told the subjects to drop the weapons. One of the subjects pointed his gun at the officer and the officer fired one shot at the subject. Both subjects fled and jumped the fence into the yard where a second officer was located. The second subject pointed his gun at the second officer in the second officer fired two shots striking the subject in the arm. The wanted subject was arrested and the other subject was able to escape.
- b. The shooting was found to be justified.

237. 1028269<sup>232</sup>

- a. Officers were serving a search warrant and forced entry into a residence by use of a battering ram. Once inside the residence, officers encountered several adults and children sleeping. Officers attempted to force entry into a locked bedroom door and shots were fired at the officers from a locked room. One officer was struck in the calf and another officer was struck in the ankle by the gunshots. Officers returned fire into the room and the subject surrendered and was taken into custody.
- b. The suspect claimed he was sleeping and when he heard screams he thought someone had broken into his home. The suspect said he saw blue jeans and shoes and fired his gun without knowing it was the police.
- c. The shooting was found to be justified.

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<sup>230</sup> RFC-Lane 013807-14501.

<sup>231</sup> RFC-Lane 014502-14988.

<sup>232</sup> RFC-Lane 014989-15604.

238. 1028633<sup>233</sup>

- a. Officers conducted an undercover buy-bust of a subject with one-kilogram cocaine. After the transaction had been completed, an arrest signal was given. When officers approached, the suspect fled on foot and pointed a gun and one of the officers. The officer fired two rounds at the subject striking him in the leg.
- b. A business surveillance video captured the incident and corroborated the officer's statements.
- c. The shooting was found to be justified.

239. 1029236<sup>234</sup>

- a. Officers made a car stop for a stop sign violation. The driver exited the car with a handgun in his right hand and fled on foot. The driver pointed the gun at an officer who fired three rounds toward the driver. The driver continued to run and again turned and pointed his gun at the officer, who fired one round at the subject. The subject continued to run and threw the handgun on the ground and the gun was recovered, but the subject was able to escape.
- b. Another occupant in the vehicle stated the subject had a handgun.
- c. The subject was later located and arrested. The subject claimed he was opening a car door when he heard gunfire and he ran away. The subject claimed an officer shot at him while he was running. The subject acknowledged he had been found guilty by a jury, but said he intended to appeal.
- d. The shooting was found to be justified.

240. 1029271<sup>235</sup>

- a. Officers responded to a subject who had been robbed at gunpoint. Officers located the suspect vehicle and the driver rammed his vehicle head on with the officer's vehicle. An officer approached the suspect's vehicle and tried to open the driver's side door. The suspect placed the vehicle in drive and drug the officer for several feet, the suspect then drove at two other officers who both shot at the driver.
- b. The driver received a gunshot wound to his right hand.
- c. This shooting was found to be justified.

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<sup>233</sup> RFC-Lane 015605-16155.

<sup>234</sup> RFC-Lane 016156-16470.

<sup>235</sup> RFC-Lane 016471-16957.

241. 1029583<sup>236</sup>

- a. Officers were conducting a buy-bust narcotics transaction. After the transaction was completed, an officer gave the arrest signal and other officers attempted to arrest the subject. The subject jumped into a vehicle and accelerated the vehicle backward, then forward, and reverse and again. An officer, fearing the subject was going to drive into other officers, discharged his weapon one time striking the subject in the face.
- b. The shooting was found to be justified.

242. 1029595<sup>237</sup>

- a. Officers contacted the subject for panhandling. The subject drew a knife and began swinging the knife as he walked away from the officers. Officers deployed OC spray, but the subject did not drop his knife and continued to disregard the officer's commands. An officer tried to use an ASP baton to trip the subject, and hit his hand that was holding the knife, but he was unsuccessful. The subject then grabbed an elderly man from behind and placed the knife to his neck. At some point, the man fell to the ground, the subject raised knife, an officer grabbed the subject's arm and officers fired three shots striking the subject. One of the rounds struck the officer, who grabbed the subject's hand, in his ballistic vest.
- b. The shooting was found to be justified.

243. 1029836<sup>238</sup>

- a. Officers were serving a search warrant and upon entry a pit bull charged at an officer. The officer fired four rounds at the pit bull, killing the dog, but bullet fragments injured three individuals.
- b. The shooting was found to be justified.

244. 1030377<sup>239</sup>

- a. Officers were dispatched to a domestic disturbance and were advised the subject had a gun and had threatened to shoot police officers. After the officers arrived, the subject came out of his residence holding a gun. The officers repeatedly told the subject to drop the gun, but the subject refused to do so and refused to speak with the officer. The subject pointed the gun at an officer and an officer fired three times, striking the subject once on the leg.

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<sup>236</sup> RFC-Lane 016958-17395.

<sup>237</sup> RFC-Lane 017396-17917.

<sup>238</sup> RFC-Lane 017918-18262.

<sup>239</sup> RFC-Lane 019061-20156.

b. The shooting was found to be justified.

245. 1030513<sup>240</sup>

- a. Officers saw a subject making furtive movements inside the vehicle and attempted a traffic stop. The subject failed to stop, and a pursuit ensued. The pursuit was terminated, but later reinitiated by other officers. The vehicle became disabled and the driver exited his vehicle. The driver was armed with a pistol. The subject turned toward the officers with his gun in his hand and one officer fired three times and a second officer fired once. The suspect died at the scene.
- b. A civil suit was filed against the city and summary judgment was issued in favor of the city.
- c. The shooting was found to be justified.

246. 1030601<sup>241</sup>

- a. Officers responded to a shots fired call of a male shooting at another male. Officers stopped a van in the area and when officers asked the driver to show his hands, he refused. An officer saw a gun in the vehicle and yelled to other officers that there was a gun. The subject pointed the gun at an officer and one officer fired five times at the subject and a second officer fired a single round. The weapon was recovered.
- b. The subject would not provide a statement to IPRA.
- c. The shooting was found to be justified.

247. 1030846<sup>242</sup>

- a. Officers were in a pursuit of the vehicle and during the pursuit the vehicle struck a police car. At the conclusion of the pursuit, an officer ran up to the driver's door and attempted to pull the driver out of the vehicle. The driver accelerated trapping the officer between the vehicle and a wrought iron fence. As the driver accelerated he turned the vehicle to the left, bringing closer to the fence. An officer on the passenger side of vehicle, believing the officer would be dragged under the vehicle, shot at the driver striking him in the hip.
- b. The shooting was found to be justified.

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<sup>240</sup> RFC-Lane 020157-21304.

<sup>241</sup> RFC-Lane 021305-22046.

<sup>242</sup> RFC-Lane 022047-22486.

248. 1037879<sup>243</sup>

- a. A subject entered the parking lot of a police station and murdered a police officer. The subject and fired shots at a bystander and robbed him of a tool bag. An officer inside the police station heard what she believed to be fireworks and went outside and saw the subject with what on his face. Believing the subject was a crime victim, the officer went back inside the police station to call for assistance. When the officer came back outside, she was confronted by the subject who was holding a handgun. The officer moved to cover and ordered the subject to put down the gun, but the subject did not comply and told the officer to shoot him. Two other officers who were inside the police station heard the initial gunshots and saw the subject threatening the officer at gunpoint. Both officers fired at the subject and one round struck the subject in the chest and killing him.
- b. The shooting was found to be justified.

249. 1037895<sup>244</sup>

- a. Officers made the subject in a vehicle parked at a fast food restaurant. The driver and the officer his license and his cellular phone and then put the vehicle into drive moving forward striking one of the officers. An officer reached into the vehicle to shift the vehicle into park, but became lodged in the window. The driver put the vehicle in reverse and backed into another vehicle. The second officer shot at the driver fearing for the life of the officer stuck in the driver's window.
- b. A civil suit was filed, and a jury awarded damages in favor of the plaintiff.
- c. The shooting was found to be justified.

250. 1041134<sup>245</sup>

- a. Officers saw a suspicious van driving slowly with its side door open. The officers were concerned that a group of pedestrians were about to be shot at, or that the vehicle was about to be shot at. The officers attempted a car stop and the suspect vehicle hit their vehicle and then fled. At the conclusion of the pursuit, the subject pointed a rifle at an officer and the officer fired his gun one time striking his partner officer in the leg. It was later determined the rifle was a replica.
- b. The use of force was found to be justified.

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<sup>243</sup> RFC-Lane 049898-51302.

<sup>244</sup> RFC-Lane 051303-52061.

<sup>245</sup> RFC-Lane 059370-59908.

251. 1041178<sup>246</sup>

- a. Officers were conducting a surveillance of a Kentucky Fried Chicken parking lot after receiving complaints of drug and gang activity. Officers attempted to stop a subject in a vehicle whom they believed had just engaged in a drug transaction. An officer reached inside the driver's window in an effort to turn off the ignition, became wedged in the window and was being dragged along the pavement. The officer ordered the driver to stop, but the driver refused and drove out of the parking lot onto the roadway. The officer fired several times at the driver. The officer was treated for his injuries and the driver died as result of his wounds.
- b. The shooting was found to be justified.

252. 1045804<sup>247</sup>

- a. Officers responded to a call of shots fired and located two subjects, one of whom was acting suspiciously and making movements with his hands and body because the officers to believe the subject had a firearm. The subject refused to obey the officers' commands to stop and show his hands and when he reached the corner, the subject turned for the officers and pointed a gun. Three officers fired at the subject. The subject was hit by the officers' rounds and died from his injuries.
- b. The shooting was found to be justified.

253. 1059373<sup>248</sup>

- a. Officers observed a vehicle that had just been hijacked. The officers pulled alongside the suspect vehicle and ordered the driver out of the vehicle. The driver left the vehicle into drive, exit his vehicle and began to run. The officers chased the subject on foot and the subject continually look back at them. The subject pointed a dark object at the officers and an officer believing the object was a gun fired four rounds at the subject striking him. The subject died from his injuries. The object was later determined to be a dark color iPhone box.
- b. The shooting was found to be justified.

**Mr. Clark's Opinion That the CPD Consciously and Deliberately Created Impediments to the Complaint Process by Requiring Affidavits is Without Merit**

254. Mr. Clark opines the CPD consciously and deliberately created impediments to the complaint process by requiring affidavits<sup>249</sup> is without merit

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<sup>246</sup> RFC-Lane 059909-60602.

<sup>247</sup> RFC-Lane 074743-75281.

<sup>248</sup> RFC-Lane 120049-120563.

<sup>249</sup> Clark Report at 8.

255. I agree that it is generally a recommended practice to investigate all complaints. I also agree that the CPD does not investigate all complaints of officer misconduct in instances where there is no signed affidavit either because the complainant is, or wishes to be, anonymous, or because the complainant declines to sign the affidavit.
256. However, I disagree with Mr. Clark's opinion that the CPD has the ability to investigate complaints without an affidavit, thus discouraging complaints of officer misconduct. In fact, the CPD is constrained in investigating these complaints not due to some internal decision to shelter officers from allegations of misconduct, but because they are prohibited from investigating these complaints due to state law.
257. Illinois State law requires that "(b) Anyone filing a complaint against a sworn peace officer must have the complaint supported by a sworn affidavit. Any complaint, having been supported by a sworn affidavit, and having been found, in total or in part, to contain knowingly false material information, shall be presented to the appropriate State's Attorney for a determination of prosecution."<sup>250</sup> There is no requirement that the affidavit be signed by the victim. A complainant, a witness, or the victim may sign the affidavit.
  - a. The intent of such legislation is not to prevent complainants from coming forward with legitimate concerns of police misconduct, but to prevent knowingly false and malicious complaints that are aimed at harming individual officers in retaliation for lawful conduct by the officer (e.g., arrest of the complainant) or an effort to divert investigatory resources to false complaints, decreasing the staffing to investigate legitimate concerns.
  - b. The CPD does receive all complaints from any source, including anonymous complaints and complaints without an affidavit. These complaints are all documented and retained.
  - c. CPD policy allows for an exception to the affidavit requirement when criminal conduct is alleged, when a violation of the medical role is alleged, when a residency rule violation is alleged, when the complainant is a Department member, or when there is an override approved by either the Chief Administrator of IPRA, or the Chief of BIA.
  - d. The state of Illinois is not unique by statutorily mandating an affidavit to investigate an allegation of officer misconduct. Some of these statutes have been challenged in the courts. For example, in California Penal Code section 148.6 requires an affidavit similar to the state of Illinois. That statute was challenged in the court and found to be unconstitutional.<sup>251</sup> The appropriate avenue to challenge such a statute is either in the courts or through the legislature, not by claiming the law should be simply ignored by a law enforcement agency who is duty bound to enforce the law.

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<sup>250</sup> 50 ILCS 725/3.8.

<sup>251</sup> *Chaker v. Crogan*, 428 F.3d 125 (9<sup>th</sup> Cir. 2005).

- e. Notwithstanding the state law, the City of Chicago negotiated an override procedure with the union, which allows an investigation of an officer absent an affidavit in certain circumstances. The override policy states that if BIA requests an override, the request will be made to the Chief Administrator of IPRA and if IPRA requests the override, that it be approved by the Chief of BIA. This system appears reasonable, as it evidences a system of checks and balances in that neither IPRA nor BIA will routinely seek overrides, but only seek overrides for unique matters consistent with the intent of state law. There is no evidence that either IPRA or BIA refuses overrides when an override is justified.
- f. It is inappropriate to criticize the CPD following Illinois state law that requires an affidavit be signed by a complainant. For CPD to do otherwise would be unlawful.

258. Mr. Clark's opinion that the City of Chicago failed to take affirmative steps to end or remove the affidavit requirement<sup>252</sup> is without merit. The City of Chicago has made efforts to conduct investigations of all complaints regardless if they originated from an anonymous source if an affidavit was not signed, but was not successful due to arbitration and court holdings.

- a. "Over the years the City has actually expanded its ability to investigate anonymous complaints through collective bargaining and interest arbitration. The initial FOP labor agreements from the early 1980's prohibited investigation of all anonymous complaints that weren't criminal in nature. The exceptions for residency and medical roll abuse were added as the result of a 1993 interest arbitration proceeding between the City and the FOP. During those negotiations, the City had sought virtually unrestricted ability to investigate them. The Interest Arbitrator, George Roumell, conducted extensive hearings and issued his Award, granting us the medical roll and residency exceptions but denying our proposal to go beyond those exceptions. In his Award, Arbitrator Roumell held that the function of this provision 'is to prevent harassment of officers by persons who are not prepared to step forward and identify themselves as complainants.' He further held that acting on anonymous complaints 'generally speaking, is the antithesis of the democratic way of life, by denying one the right to confront his accuser.'"<sup>253</sup>
- b. "In 2003 the General Assembly enacted an amendment to the UPODA mandating that "anyone filing a complaint against a sworn peace officer must have the complaint supported by a sworn affidavit" (50 ILCS 725/3.8). Thus under state law, complainants must not only identify themselves, they must present their complaint under oath, subject to perjury. The City testified against this legislation, expressing our fear that such a requirement would intimidate citizens and discourage them from coming forward with complaints made in good faith. When the legislation nevertheless passed by an overwhelming majority, we told the FOP that we would refuse to comply, relying on certain technical legal objections, but we offered to sit down and bargain over the subject of providing reasonable,

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<sup>252</sup> Clark report at 9.

<sup>253</sup> RFC – LaPorta 024172-3.

balanced protections to officers confronted with false allegations of misconduct. The FOP sued us in Circuit Court and we prevailed on our technical legal arguments. In response the FOP did two things: it went back to Springfield to amend the Illinois Public Labor Relations Act to overcome our legal arguments about the affidavit requirement and, more importantly, it agreed to sit down with us and negotiate a set of contract provisions balancing the interest of officers not to be subjected to harassing, vindictive complaints while serving our interest in maintaining our ability to investigate any allegation of misconduct where there is some reasonable likelihood it might possess merit, even if the complainant does not execute an affidavit. These detailed provisions are found in Appendix L of the FOP labor agreement. These provisions actually provide the Department with broader authority to investigate complaints made without an affidavit than we would possess under the four corners of the UPODA.”<sup>254</sup>

259. The lack of cooperation by a complainant does impact the ability of the agency to investigate allegations of misconduct and to uphold disciplinary recommendation. If allegations were to be sustained against the officer the complainant may be required to testify in an administrative hearing or appeals hearing. Police officers, like everyone else, have due process rights, and included in those rights are the ability to review disciplinary decisions and the facts and circumstances of the investigation. It may be difficult to uphold a disciplinary appeal without the cooperation of the complainant and witnesses. For example, the state of Kentucky requires the dismissal with prejudice of any claim by a complainant if the complainant does not appear, except due to circumstances beyond his control.<sup>255</sup>
260. Anonymous complaints are investigated when the allegation is a violation of the Illinois Criminal Code, the criminal code of another state of the United States or a criminal violation of a federal statute.<sup>256</sup>
261. In *Lane*, Mr. Clark said in his deposition that he was unaware the affidavit requirement was state law and acknowledged the City cannot be blamed for state law.<sup>257</sup> In this matter, Mr. Clark testified he was aware the affidavit requirement was state law and that “Chicago needs to follow the state law.”<sup>258</sup> Mr. Clark said he believes the City of Chicago get the law changed.<sup>259</sup>
262. Mr. Clark also acknowledged that the City investigates all officer-involved shooting regardless if an affidavit is received.<sup>260</sup> Thus, when shootings are involved an officer could

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<sup>254</sup> RFC – LaPorta 024173.

<sup>255</sup> See KY. REV. STAT. ANN. §§ 15.520(1)(h)(3)-(4) ( Banks-Baldwin 2003) (requiring that complainants “be notified to appear...”).

<sup>256</sup> FOP Contract, Article 6, Section 6.1, D.

<sup>257</sup> Clark deposition in *Lane* at 365.

<sup>258</sup> Clark deposition at 123.

<sup>259</sup> Clark deposition at 123.

<sup>260</sup> Clark deposition in *Lane* at 368 and Clark deposition at 126-7.

not form the opinion that their actions would not be investigated as all shootings are investigated.

263. Mr. Clark also complains that the City does not investigate “allegations of misconduct that happened more than five years before the misconduct at issue, and not investigating allegations of misconduct more than five years after a CR number is issued.”<sup>261</sup>

- a. The FOP contract does state, “Unless the Superintendent of Police specifically authorizes in writing, no complaint or allegation of any misconduct concerning any incident or event which occurred five (5) years prior to the date the complaint or allegation became known to the Department shall be made the subject of a Complaint Register investigation or be re-opened or re-investigated after five (5) years from the date the Compliant Register number was issued.”<sup>262</sup>
- b. This provision does not prevent the investigation of allegations of officer misconduct as it specifically contains a provision that allows the Superintendent to authorize an investigation merely by preparing a written memorandum. Rather, the intent of this provision is the recognition that stale complaints, particularly those more than five years old, place officers at great disadvantage because memories fade over time, and witnesses and evidence that would have been available if the complaint were timely may no longer be available, thus the officer may not be able to fairly defend themselves from false allegations. Such a provision is not unique, indeed in both criminal and civil law statutes of limitation place the same type of restrictions on allegations of misconduct based on the same reasoning.
- c. Mr. Clark acknowledged that the 5-year rule is not relevant in shooting cases because all officer-involved shootings are investigated<sup>263</sup> and he could offer no evidence that a single officer-involved shooting had not been investigated due to a five-year requirement.<sup>264</sup>

264. It is not unusual for police officer to be granted certain rights regarding fundamental fairness issues for conducting administrative investigations. These provisions are either made by contract or contained in state law. At least fourteen states have enacted legislation commonly referred to as “Peace Officer Bill of Rights” that conferred certain rights to police officers regarding administrative investigations.

- a. In twelve states, police officers have the statutory right to be informed prior to questioning the nature of the investigation and four states require the officer be

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<sup>261</sup> Clark report at 8.

<sup>262</sup> FOP Contract, Article 6, Section 6.1, D.

<sup>263</sup> Clark deposition in *Lane* at 368.

<sup>264</sup> Clark deposition at 127.

informed of the names of complainants.<sup>265</sup> Some states, like Florida, allow officers to review the complaint and any witness statements before being interviewed.<sup>266</sup>

- b. The right to notice of a pending investigation that could ultimately have an adverse effect on one's employment is one of the most fundamental due process rights. Additionally, formal notice of an investigatory interview poses no barrier to accountability. Prior notice does not preclude undercover investigation of possible officer misconduct, including "sting" operations, which are increasingly used to detect officer misconduct. The notice requirement applies only when an officer is to be formally questioned about the alleged misconduct.
- c. Several states have affidavit requirements for the investigation of complaints. In Maryland, complaints alleging police brutality must be duly sworn and filed by the complainant, a family member, or a witness within ninety days of the incident.<sup>267</sup> So, in a case where excessive force is alleged that agency is prohibited from accepting a complaint from the victim's attorney and an agency cannot impose discipline if the complaint is received more than 90 days after the incident. Indeed, Maryland's POBR is one of the strictest in the country. IPRA could not exist in Maryland because it is against the law for anyone other than a sworn officer to interrogate an officer accused of misconduct.<sup>268</sup>
- d. In California, investigations of officer misconduct generally must be completed within one-year or the officer cannot be subjected to discipline;<sup>269</sup> and investigation may only be re-open after the one-year period if the evidence could not have been reasonably discovered in the normal course of investigation without resorting to extraordinary measures by the agency, or if the evidence resulted from the officer's pre-disciplinary response or procedure.<sup>270</sup>

265. The suggestion that the CPD should ignore state law and conduct investigations of complaints that an officer engaged in misconduct without a signed affidavit is without merit. If the CPD were to engage in this type of conduct, it would be sending their officers a message that the organization believes it is above the law and that certain laws can be ignored. Moreover, the pattern and practice allegations in this case concern the City of Chicago's investigations into officer involved shootings. IPRA investigates all such shootings without any complainant affidavit requirement. There is no evidence that by following state law and not investigating where the complainant does not sign an affidavit that any officer would believe they could violate the constitutional rights of others with impunity.

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<sup>265</sup> "An Impediment to Police Accountability? An Analysis of Statutory Law Enforcement Officers' Bills of Right," Kevin M. Keenan and Samuel Walker at 211. <http://www.bu.edu/law/journals-archive/pilj/vol14no2/documents/14-2keenanandwalkerarticle.pdf>

<sup>266</sup> FLA. STAT. ANN. § 112.533(2)(a)(2) (West 2003).

<sup>267</sup> MD. CODE ANN., art. 27, §§ 727(h), 728(b)(4) (2003).

<sup>268</sup> MD. CODE ANN. Title 3, Subtitle 1, Section 3-104 (b).

<sup>269</sup> CA Gov't Code § 3304(d)(1)

<sup>270</sup> CA Gov't Code § 3304(g).

266. The premise of Mr. Clark's opinion is that officers will engage in misconduct because it is likely that the department will not investigate allegations of misconduct due to the lack of an affidavit. However, the majority of complaints do have affidavits and there would be no method for an officer to know in advance whether a complainant will file an affidavit or if the department will seek an affidavit override. Thus, it would be impossible for an officer to believe they could engage in misconduct with impunity based on the affidavit requirement.

**Any Conclusion that the Chicago Police Department or IPRA has a Low Sustained Rate Cannot be Supported**

267. Mr. Clark opines the sustained rate of complaint investigations is somehow too low.<sup>271</sup> Similarly, the DOJ report states the sustained rate for use of force cases is too low.<sup>272</sup>

268. Mr. Clark opined the national standard for Internal Affairs was that at least 9% of cases should be sustained.<sup>273</sup> Mr. Clark said the "national standard" is not published anywhere and said the standard is "anecdotal." He added there is no national standard for the sustained rate of shooting cases.<sup>274</sup>

a. This is not the first time Mr. Clark claimed there was a national standard for a sustained rate for Administrative investigations. In *Moore*, Mr. Clark said the sustained rate among large departments should be at least 8%. Mr. Clark was similarly not able to provide any support for his conclusion and in that case he said the rate was based upon his "professional wisdom."<sup>275</sup>

b. Mr. Clark's conflation of "national standard" with "anecdotal," which is defined as not necessarily true or reliable because it is based on personal accounts rather than facts or research<sup>276</sup> and his "professional wisdom," undermines his credibility.

c. It is not surprising that Mr. Clark is unable to provide empirical support for his anecdotal opinion about what he thinks the sustained rate should be. He has never served in a high-level police administrator role or in an internal affairs unit, has never been published on the subject of sustained rates and has done no research on the subject of sustained rates.

269. There are no standards, protocols, or policies for complaint processes that are uniformly adhered to by police departments across the nation. This lack of uniformity makes any estimate of a proper sustained rate for inter-department comparisons impossible.

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<sup>271</sup> Clark report at 10.

<sup>272</sup> DOJ Report at 7.

<sup>273</sup> Clark deposition in *Lane* at 205.

<sup>274</sup> Clark deposition in *Lane* at 206.

<sup>275</sup> Clark deposition in *Moore* at 195.

<sup>276</sup> Oxford Dictionary.

- b. The problem of comparisons of complaint and disciplinary data between police departments in the United States was highlighted in the COPS publication entitled, "Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice."<sup>277</sup> That publication was developed from a grant that brought the leaders of Internal Affairs organizations from across the country including Atlanta, Boston, Chicago, Dallas, Detroit, Houston, Los Angeles (police department and sheriff), Miami-Dade, New Orleans, Philadelphia, Phoenix, Washington Metro, Seattle, Charlotte-Mecklenberg and San Francisco. Included in this group were a number of experts in the field including myself.
- c. The group learned that there was a great disparity in the definition of terms, differences in investigative processes and differences in state and local laws, collective bargaining agreements, and organizational and political cultures that created difficulties in achieving commonality. This lack of commonality of terms, processes and reports makes it impossible to compare data from one agency to another without knowing the specific differences of each individual agency.
- d. Similar findings on the problem of term definitions and comparisons between departments were discussed in the 1996 DOJ report on "National Data Collection on Police Use of Force." In that report, the problem with defining terms such as police use of force, excessive use of force and use of excessive force was discussed not only to understand the difference between the terms, but to understand reporting differences. Further, in their discussion of comparing use rates the authors stated, "the use of rates to compare jurisdictions may be misleading when other factors are not taken into consideration. Two jurisdictions may differ considerably in demographic characteristics such as age distribution of the population, ethnic composition, economic base, and other factors. The rates may also differ simply because the police department in one jurisdiction has been more honest in its reporting on use of force. The same problems can occur even when comparisons are made between two different areas of the same city."
- e. The report added that the meaning of a complaint rate is not entirely clear. "A low force complaint rate could mean that police are performing well or that the complaint process is inaccessible; likewise, a high force complaint rate could mean that officers use force often or that the complaint process is more accessible." Similarly, a low sustained rate may mean that the officers are performing their duties appropriately or that the investigative process is failing to identify misconduct. It is unreasonable to conclude based on the sustained rate alone that the Chicago Police Department is somehow failing to address officer misconduct.

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<sup>277</sup> Mr. Clark agreed that the COPS is an authoritative publication in law enforcement. See Clark deposition in *Lane* at 160.

- f. The report clearly states “Citizen complaint data must be interpreted with caution. Differences in how agencies receive, process, and record complaints can account for differences in the volume and rate of complaints across agencies.”
- g. There is wide agreement in the policing literature that complaint and sustained rates should not be used to evaluate police departments in dealing with allegations of misconduct.
  - 1.) In “Police Use of Force Official Reports, Citizen Complaints, and Legal Consequences” the authors state that complaint rates are one of the “most badly abused police-based statistics.” They also state that “higher rates of complaints received by departments may reflect high citizen confidence in the investigation and disposition of complaints and thus argued that ‘a more open and responsive’ system for processing complaints would likely lead to an increase in complaints.”
  - 2.) In “Police Accountability: The Role of Citizen Oversight” Samuel Walker found that sustained rates are consistently very low in all complaint review procedures, that there are enormous problems with the data that are used to compute the sustained rate and that no one has developed a standard for an acceptable rate.
  - 3.) In “The New World of Police Accountability,” Walker wrote, “The sustained rate, however, is not an appropriate performance measure.”
  - 4.) Dr. Alpert and I discussed similar conclusions in our book, “Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight” where we wrote, “The lack of standardization between agencies makes it nearly impossible to compare numbers from one organization to another.”
- h. A sustained rate, in and of itself is not a valid measure of the overall integrity and effectiveness of a complaint review process. There are valid reasons why most community member complaints are not sustained. For instance, sometimes complainants retract their complaint, refuse to cooperate in the investigation, lack credibility (intoxicated or mentally ill), or they cannot identify the officer. Some complaints cannot be sustained because the statement of the officer and the complainant conflict and there were no independent witnesses or evidence. Sometimes there is no signed affidavit as required by law. Some complaints are proven to be false. When these factors are considered it is unreasonable to argue that a high rate of non-sustained complaints proves that the entire process is biased or procedurally substandard. The only reasonable method to determine if a complaint is properly investigated or if it should be sustained is by reviewing the facts and circumstances of each specific investigation.

- i. The only method to determine a proper sustained rate is to review the facts of each specific case. If all of the cases should be sustained, the appropriate sustained rate should be 100%. If none of the cases should be sustained, the sustained rate should be 0%.
- j. While it is understandable that some persons would seek methods to gain an understanding of how administrative investigations and findings are being handled by a law enforcement agency, and while it may seem like a reasonable statistic to the layperson, within the law enforcement and criminology profession the consensus is that sustained rates simply are not a reliable indicator of quality. The only method to determine reasonableness of an investigation is to review the specific investigation. No reasonable police practices expert would suggest otherwise.

270. Mr. Clark opines the city has a “de facto policy or widespread custom of sustaining and disciplining officers less often for misconduct against African-American citizens.”<sup>278</sup> However, Mr. Clark offers no evidence in his report to support his conclusion.

**There is No Evidence that there is a Widespread, Pervasive, Pattern, Practice or Custom of Members of the Chicago Police Department Engaging in the Code of Silence to Protect Fellow Officers From Allegations of Wrongdoing**

271. The concept of a code of silence solidarity refers to the unique sense of identity, belonging, and cohesion that one develops as part of a group of colleagues who share common roles, interests, problems or concerns. In some organizations, solidarity results in loyalty to one’s colleagues instead of loyalty to an organization, community, or set of principles.<sup>279</sup> In those instances individuals will sometimes engage in a “code of silence” where they do not report the misdeeds of others within their group. In policing, a code of silence results in officers not reporting misconduct by other officers; falsely claiming not to have seen the events in question; actively lying to investigators; or colluding with other officers to create a cover story.<sup>280</sup>

272. In an organization where the code of silence is widespread, the organization creates an atmosphere that officers may engage in misconduct knowing that their fellow officers and supervisors will not report their misconduct, or if they are questioned they will deny knowledge of the misconduct. While all professions have employees who may be reluctant for a variety of reasons to report the misconduct of others employees,<sup>281</sup> police officers are entrusted with incredible powers and have an affirmative duty to prevent, intervene and report misconduct, particularly criminal misconduct, when it comes to their attention. Indeed, the Christopher Commission report stated, “Police officers are given special

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<sup>278</sup> Clark report at 11.

<sup>279</sup> “The Encyclopedia of Police Science,” Jack R. Greene, Ed. (3rd ed. 2007) at 994-1000.

<sup>280</sup> “The Christopher Commission Report,” (1991) at 168, “The code of silence consists of one simple rule: an officer does not provide adverse information against a fellow officer.”

<sup>281</sup> “Above the Law: Police and the Excessive Use of Force,” by Jerome H. Skolnick and James J. Fyfe (1993) at 110.

powers, unique in our society, to use force, even deadly force, in the furtherance of their duties. Along with that power, however, must come the responsibility of loyalty first to the public the officers serve. That requires that the code of silence not be used as a shield to hide misconduct.”<sup>282</sup>

273. The code of silence may exist at some level in all police agencies and when it does manifest it contributes immensely to incidents of abuse of citizens by the police. Police officers who are aware of misconduct by other officers sometimes do not come forward for fear of reprisal by fellow officers or the department. Those who report misconduct may be ostracized and harassed, become targets of complaints and even physical threats, and are made to fear that they will be left alone on the streets in a time of crisis.<sup>283</sup> The Mollen Commission wrote, “The pervasiveness of the code of silence is bolstered by the grave consequences for violating it: Officers who report misconduct are ostracized and harassed; become targets of complaints and even physical threats; and are made to fear that they will be left alone on the streets in a time of crisis.”<sup>284</sup> The report continued, “Honest officers who know or suspect corruption among their colleagues, therefore, face an exasperating dilemma. They perceive that they must either turn a blind eye to the corruption they deplore, or risk the dreadful consequences of reporting it.”<sup>285</sup>
274. Police officers who know that their fellow officers and supervisors will engage in a code of silence may develop the belief that they may engage in misconduct, even criminal misconduct, with impunity as they know they will not be reported and if they are investigated they know that other officers will not provide evidence adverse to their interests. The code of silence is even more insidious when police officers victimize individuals, who because of their criminal history; level of intoxication; involvement in prostitution or the commercial sex industry; minors; immigrants and undocumented persons; or those with mental illnesses or developmental disabilities, are more vulnerable due to a perceived lack of credibility.<sup>286</sup> Moreover, other police officers are often the only witnesses to a police abuse of a citizen’s rights and without a witness officer coming forward it is very difficult to prove misconduct even by a preponderance of evidence.
275. In any police agency, there may be anecdotal evidence or individual acts, of a code of silence among individual officers that does not amount to an unwritten policy, practice, or custom within the agency itself.
276. On December 9, 2015, Mayor Emanuel delivered a speech in response to the Laquan McDonald shooting. In that speech, Mayor Emanuel addressed the code of silence which he defines as the “tendency to ignore, deny or in some cases cover-up the bad actions of a colleague or colleagues.” Mayor Emanuel did not state there was a widespread or

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<sup>282</sup> “The Christopher Commission Report” (1991) at 170-1.

<sup>283</sup> “The Encyclopedia of Police Science,” Jack R. Greene, Ed. (3<sup>rd</sup> ed. 2007) at 219. See also, “Above the Law: Police and the Excessive Use of Force,” by Jerome H. Skolnick and James J. Fyfe (1993) at 110.

<sup>284</sup> “Mollen Commission Report” (1994) at 53.

<sup>285</sup> “Mollen Commission Report” (1994) at 57.

<sup>286</sup> “Addressing Sexual Offenses and Misconduct by Law Enforcement: Executive Guide,” International Association of Chiefs of Police (June 2011).

pervasive code of silence in the Chicago Police Department; rather, he said the City must hold “accountable the fraction of officers who betray our solemn and sacred trust, we must also acknowledge the real dangers police face and the honorable work that the vast majority of them do every day.” Moreover, rather than turning a blind eye to the McDonald shooting, Mayor Emanuel listed the City’s action steps that included:

- a. Recognizing that “Officer Van Dyke has been charged with murder and the state’s attorney is proceeding with the case;”
- b. A federal civil rights investigation into the McDonald shooting and the conduct of the officers at the scene is being handled by the U.S. Attorney;
- c. Welcoming a Department of Justice review (which was completed);
- d. The CPD and the ACLU agreed to have an independent evaluation of the CPD’s investigatory stop practices and procedures, additional data collection on stops, better training for officers, and better transparency for the public; and,
- e. The City created the Police Accountability Task Force.<sup>287</sup>

277. It is my opinion that the CPD has reasonable policies that are consistent with generally accepted police practices designed to require officers to be truthful and to report misconduct. There is evidence that the CPD does indeed investigate allegations of misconduct, including allegations of untruthfulness and failure to report, that it sustains allegations and that it takes disciplinary measures between a SPAR and termination based on the offense. It is also apparent that members of the CPD are aware if they are being investigated for serious misconduct the department will sustain founded allegations thus employees often resign while under investigation to avoid termination. Moreover, the City of Chicago, unlike most police agencies across the country, has independent outside oversight that actually conducts its own investigations into the most serious allegations of officer misconduct.

278. It is my opinion that there is no evidence of a widespread pattern, practice or custom of CPD officers engaging in a Code of Silence to the extent that an officer would believe they could engage in a constitutional violation with impunity.

279. Mr. Clark said the code of silence was not the moving force, in and of itself, behind the death of Mr. Loury.<sup>288</sup>

#### **There is No Evidence that the Chicago Police Department Failed to Train Its Officers Regarding the Use of Force**

280. Mr. Clark opined that the City of Chicago had a “*de facto* policy or widespread custom of

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<sup>287</sup> Full Text of Emanuel Speech: Chicago Police Accountability, McDonald Shooting.

<sup>288</sup> Clark deposition at 211-2.

failing to train officers in the proper use of force generally and with respect to the discharge of firearms against civilians and fleeing suspects in particular.”<sup>289</sup> However, Mr. Clark does not offer any evidence to support his opinion.

- a. Mr. Clark did not review any of the training videos produced by the City in the *Lane* matter.<sup>290</sup>
- b. Mr. Clark agreed the City has policies relating to the use of force and untruthfulness<sup>291</sup> and said he found the policies to be “adequate.” Mr. Clark said his concern was not with the policies, but his belief the policies were not enforced.<sup>292</sup>

281. Contrary to Mr. Clark’s unsupported opinions, there is substantial evidence that the City of Chicago does train its officers on the use of force generally and specifically regarding the use of deadly force.

282. The CPD has enacted policies regarding the use of force.

- a. General Order G03-02 – The CPD identifies the sanctity of life to be the Department’s highest priority is the sanctity of human life. In all aspects of their conduct, Department members will act with the foremost regard for the preservation of human life and the safety of all persons involved. The policy defines and provides procedures for the use of force, deadly force, and the duty to intervene.
- b. General Order G03-02-01 – Provides officers with force options and defines de-escalation techniques.
- c. General Order G03-02-02 – Provides direction for reporting of force incidents.
- d. General Order G03-02-03 – Defines the department’s policies for firearm discharges including notifications and investigative procedures.
- e. All of these policies are consistent with generally accepted practices in policing.

283. Ms. Hyfantis is an attorney and provides training for the Chicago Police Department.<sup>293</sup>

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<sup>289</sup> Clark Report at 11.

<sup>290</sup> Clark deposition in *Lane* at 136.

<sup>291</sup> Clark deposition in *Lane* at 137.

<sup>292</sup> Clark deposition in *Lane* at 138-139.

<sup>293</sup> Hyfantis deposition in *Lane* at 7.

- a. Ms. Hyfantis said officers are trained regarding justifications for the use of deadly force<sup>294</sup> and all police recruits received two hours of deadly force training in the Academy.<sup>295</sup>
- b. Ms. Hyfantis said the Illinois Law Enforcement Training Board requires four hours of training in use of force law in the Chicago Police Department exceeds that requirement by providing six hours of training.<sup>296</sup>
- c. Ms. Hyfantis said it is her opinion that the use of force training is clear, informative, sufficient and meets generally accepted policing standards.<sup>297</sup>
- d. Ms. Hyfantis said in her course on civil rights and civil liabilities, she teaches the concept of non-actor liability and explains that officers who have realistic opportunities to prevent constitutional violations by other officers and are deliberately indifferent to the violation could be found liable.<sup>298</sup>
- e. Ms. Hyfantis said officers receive use of force training after they complete their probationary period<sup>299</sup> and that she has provided use of force training to Field Training Officers who are responsible for training new officers in the field.<sup>300</sup>

284. Officer Hitz said he had foot pursuit training in the academy,<sup>301</sup> he participates in monthly E-Learning training sessions,<sup>302</sup> he had use of force classes,<sup>303</sup> he had shoot/don't shoot decision-making training in the academy,<sup>304</sup> and he has had use of force training after the academy.<sup>305</sup>

285. There is evidence in this matter that the Chicago Police Department provides basic academy and ongoing professional training to its officers. I have reviewed the training materials provided in this matter and find them to be reasonable and consistent with generally accepted police practices.

#### **Officer Hitz Knew There Would Be Consequences if He Engaged in Constitutional Violations**

286. Officer Hitz said he was aware he would be punished by the City if he shot someone who did not present a threat.

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<sup>294</sup> Hyfantis deposition in *Lane* at 29.

<sup>295</sup> Hyfantis deposition in *Lane* at 32.

<sup>296</sup> Hyfantis deposition in *Lane* at 60.

<sup>297</sup> Hyfantis deposition in *Lane* at 11.

<sup>298</sup> Hyfantis deposition in *Lane* at 122.

<sup>299</sup> Hyfantis deposition at 22.

<sup>300</sup> Hyfantis deposition at 69.

<sup>301</sup> Hitz deposition at 49.

<sup>302</sup> Hitz deposition at 51.

<sup>303</sup> Hitz deposition at 245.

<sup>304</sup> Hitz deposition at 53.

<sup>305</sup> Hitz deposition at 249.

287. Officer Hitz said he knew a CPD officer was criminally charged for murder for an on-duty use of force prior to this incident.
288. Officer Hitz said he knew the Mayor had called for increased scrutiny of CPD officers' actions prior to this incident.<sup>306</sup>
289. Officer Hitz said he did not shoot Mr. Loury because he believed he would not be punished and the only reason he used deadly force was because he was in fear of his life.<sup>307</sup>

**There is No Evidence That the CPD or the City Council Engaged in a Pattern or Practice of Ignoring Police Misconduct**

285. It is my opinion that the CPD and the City Council took reasonable steps to receive, investigate and resolve allegations of police officer misconduct and that there is no evidence that the CPD or the City Council ignored or turned a blind eye to police misconduct. OPS, now COPA, accepts complaints of police misconduct. OPS, IAD and IPRA conduct reasonable investigations, reach reasonable findings and make reasonable recommendations of disciplinary actions. The CPD does impose disciplinary actions up to and including terminations based on the investigations conducted by IAD, OPS and IPRA. The CPD has implemented reasonable policies designed to control officer misconduct. There is evidence that the City Council has not ignored or turned a blind eye to police misconduct. The City developed OPS and now COPA both of which are civilian managed and civilian staff investigatory agencies to investigate allegations of misconduct. The Council also created the Police Board made up of members appointed by the Mayor with advice and consent of the Council. The Board oversees CPD and serves as an appeal board for disciplinary matters. There is evidence that the CPD took reasonable steps to review officers who had beyond a threshold number of complaints and that the CPD had systems in place like BIS and Personnel Concerns to address officers who were exhibiting concerning behavior. The department also formed Personnel Performance System to improve their existing early identification and intervention system that was already in place.

**No Reasonable CPD Officer Could Believe They Could Act Inappropriately with Impunity and That Nothing Would Happen**

286. Based on the totality of my review of this matter including: the Chicago Police Department's policies and procedures; the reasonable investigatory efforts of the Internal Affairs Division, the Office of Professional Standards and the Independent Police Review Authority; the willingness and openness of the Chicago Police Department's complaint acceptance complaints, the fact that they issue tracking numbers and conduct reasonable internal investigations; that investigations are sustained when the facts merit that conclusion; the amount and level of discipline meted out by the department, particularly the SPARS; and the number of officers who separated from the department on their own in anticipation of termination, I am of the opinion with a reasonable degree of professional

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<sup>306</sup> Hitz deposition at 256.

<sup>307</sup> Hitz deposition at 257-8.

certainty that the Chicago Police Department acted in a reasonable manner and that there is no evidence that the Chicago Police Department engaged in a pattern or practice of: (1) failing to conduct reasonable investigations of alleged officer misconduct; or (2) failing to impose adequate, reasonable, and documented discipline designed to correct behavior, prevent future misconduct, and to serve as an example to other employees.

287. Further, I am of the opinion that the City of Chicago provided a reasonable level of oversight of the CPD through the many efforts documented in this report.
288. Finally, I am of the opinion that no reasonable police officer could reasonably believe that he or she could act with impunity for violations of department rules and regulations or in violation of law. To the contrary, there is substantial evidence that the CPD makes efforts to identify, root out, investigate and discipline those employees who act inappropriately.

**Any Alleged *Monell* Violation Could Not Have Been the Moving Force Behind or the Proximate Cause of the Use of Deadly Force by Officer Hitz**

289. Contrary to Mr. Clark's opinion, there can be no *Monell* violation in this case if Officer's Hitz's use of force was reasonable under the circumstances. The evidence suggests Hitz's use of force was in fact reasonable, and therefore any alleged *Monell* violation could not have been the moving force behind or proximate cause of the use of deadly force.
290. Mr. Clark's opinion is that police officers may only "use firearms under the most extreme circumstances."<sup>308</sup> Mr. Clark testified that an officer does not have the right to use deadly force if he or she is in fear of death or serious bodily injury. Mr. Clark said that is only part of the calculus and that an officer must always have the sanctity of life in mind and then only in the "darest of circumstances."<sup>309</sup> This is not the standard used under United States Supreme Court precedent to measure an officer's use of deadly force. Mr. Clark's use of a subjectively ambiguous standard makes it impossible for him to give opinions on the use of force in this case.
  - a. While Mr. Clark applies his "sanctity of life" standard to the CPD, he did not apply the same standard when he used deadly force in his career.
  - b. Mr. Clark confronted a subject who pointed a gun at him. The subject pulled the trigger, but the gun misfired. Mr. Clark said as the subject was manipulating the slide to clear the malfunction, he shot and killed the subject. Mr. Clark acknowledged the subject was not pointing the gun at him.
  - c. Mr. Clark justified his use of deadly force because he was in fear of his life even though the gun could not be fired until the malfunction could be cleared and the gun was not pointed at him.<sup>310</sup>

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<sup>308</sup> Clark report at 4.

<sup>309</sup> Clark deposition at 34.

<sup>310</sup> Clark deposition at 93-4.

- d. Based on these limited facts, I agree that it appears Mr. Clark was at immediate risk of death or serious bodily injury and that deadly force would be justified in such a situation. However, Mr. Clark does not apply his “sanctity of life” standard, or even define the standard, as it applies to his own use of deadly force.
- 291. Police officers are trained, and the law requires, that deadly force may be used when a reasonable officer has an “objectively reasonable” belief that his or her life or the life of another is in immediate threat of death or serious bodily injury.
- 292. The U.S. Supreme Court in its landmark decision *Graham v. Conner* held that to determine whether the force used to affect a particular seizure is reasonable, one must balance the nature and quality of the intrusion on the individual’s rights against the countervailing government interests at stake. This balancing test is achieved by the application of what the Court labeled the objective reasonableness test. The factors to be considered include: 1.) The severity of the crime, 2.) Whether the suspect poses an immediate threat to the safety of the officers or others, and 3.) Whether the suspect is actively resisting or attempting to evade arrest by flight.
- 293. Whether one’s actions were objectively reasonable cannot be considered in a vacuum, but must be considered in relation to the totality of the circumstances. The standard for evaluating the unreasonable use of force reflects deference to the fact that peace officers are often forced to make split-second judgments in tense circumstances concerning the amount of force required. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.
- 294. Police officers are trained and prepared to assess dangerous situations and respond accordingly. Police officers are trained that for their force to be reasonable the level and manner of force must be proportional to the level of resistance and threat with which they are confronted. Proportionality is best understood as a range of permissible conduct based on the totality of the circumstances, rather than a set of specific, sequential, predefined force tactics arbitrarily paired to specified types or levels of resistance or threat.
- 295. Whether or not the suspect poses an immediate threat to the safety of the officer or others is the most important of the *Graham* factors. There must be objective factors to justify an immediate threat, as a simple statement by an officer that he fears for his safety or the safety of others is insufficient. A police officer is not required to wait until a suspect shoots to confirm that a serious threat of harm exists, but merely a subjective fear or a hunch will not justify the use of force by police.
- 296. When determining whether or not there is an immediate threat to the officer or others, police officers are trained to assess a number of factors. These factors include, but are not limited to:
  - a. Severity of the threat to officers or others.

- b. The conduct of the individual being confronted as reasonably perceived by the officer at the time.
- c. Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of officers vs. subjects).
- d. The effects of drugs or alcohol.
- e. Subject's mental state or capacity.
- f. Proximity of weapons or dangerous improvised devices.
- g. The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- h. The availability of other options and their possible effectiveness.
- i. Seriousness of the suspected offense or reason for contact with the individual.
- j. Training and experience of the officer.
- k. Potential for injury to citizens, officers and suspects.
- l. Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- m. The risk and reasonable foreseeable consequences of escape.
- n. The apparent need for immediate control of the subject or a prompt resolution of the situation.
- o. Whether the conduct of the individual being confronted no longer reasonably appears to pose an immediate threat to the officer or others.
- p. Prior contacts with the subject or awareness of any propensity for violence.
- q. Other exigent circumstances

297. On April 11, 2016, Officers Hitz and Riordan were in full uniform, on patrol, and driving a marked police car. Officer Hitz said he heard three separate radio calls of "shots fired" from the area of 16<sup>th</sup> and Drake, 16<sup>th</sup> and Christiana, and 16<sup>th</sup> and St. Louis, where the suspect vehicle was described to be a possible black Toyota.<sup>311</sup>

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<sup>311</sup> City 002385.

298. Officers Hitz said as they drove west on Roosevelt approaching Homan, he heard people yelling and he saw a red Cadillac and a gray Buick, and the occupants of the vehicles were yelling at each other. The vehicles were behind a black Taurus and when the officers pulled up next to the Buick, the occupants told him the subjects in the black Taurus had just shot at someone. The officers pulled in behind the Taurus were to make a car stop and activated their emergency lights. Officer Hitz said he attempted to notify the dispatcher, but there was heavy radio traffic and he could not make notification.<sup>312</sup>
299. When the Taurus stopped, a subject later identified as Mr. Loury, opened the front passenger door and fled on foot through a vacant lot. Officer Hitz said Mr. Loury had his hands near his stomach holding something as he ran. Officer Hitz exited his vehicle and began to chase Mr. Loury on foot and the entire time Mr. Loury kept his hands close to the stomach area.
300. In his deposition, Officer Hitz said Mr. Loury was running with his hands in front of him,<sup>313</sup> he was hiding his hands in front of his body and he was not swaying his arms as he ran.<sup>314</sup> Officer Hitz said he does not recall Mr. Loury's hand position as he exited the car and the first time he saw that Mr. Loury's arms were not swinging was when he entered the vacant lot and Mr. Loury was half-way through the lot.<sup>315</sup>
301. Officer Hitz said when Mr. Loury came to the end of the vacant lot, he ran into the north alley of Roosevelt and then turned westbound out of his sight. Officer Hitz said as he entered the alley he heard a noise from a fence and saw Mr. Loury straddling a fence. Officer Hitz said Mr. Loury had one foot on the ground and his other leg appear was over the fence<sup>316</sup> causing him to assume Mr. Loury was stuck on the fence.<sup>317</sup> Officer Hitz said he radioed, "He is going over the fence."<sup>318</sup>
302. Officer Hitz said when he was within three feet of Mr. Lowery, Mr. Loury pulled a handgun.<sup>319</sup> Officer Hitz said he told Mr. Loury to "Stop right there"<sup>320</sup> and as he moved closer, Mr. Loury retrieved a handgun from his waistband and dropped the gun onto the ground.<sup>321</sup> Officer Hitz said he immediately yelled, "Show me your fucking hands" and Mr. Loury looked over his shoulder and then looked back at him.<sup>322</sup> Officer Hitz said Mr. Loury was able to free his leg from the fence by ripping his pants and Mr. Loury turned and dove in the direction of the gun with his hands first. Officer Hitz said Mr. Loury retrieved the gun from under his body, and all in one motion, he turned back at him, and

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<sup>312</sup> City 002386.

<sup>313</sup> Hitz deposition at 84.

<sup>314</sup> Hitz deposition at 86.

<sup>315</sup> Hitz deposition at 87.

<sup>316</sup> Hitz deposition at 128.

<sup>317</sup> Hitz deposition at 136.

<sup>318</sup> Hitz deposition at 137.

<sup>319</sup> Hitz deposition at 141.

<sup>320</sup> Hitz deposition at 149.

<sup>321</sup> Hitz deposition at 150.

<sup>322</sup> Hitz deposition at 150.

pointed the gun at him.<sup>323</sup> Officer Hitz said he fired his gun at Mr. Loury two times<sup>324</sup> and he saw Mr. Loury jerk and turned his back toward him. Officer Hitz said he radioed, "Shots fired" and went back up officers and Officer Riordan arrived, Officer Riordan jumped the fence and handcuffed Mr. Loury.<sup>325</sup> Officer Hitz said at the time of the shooting, he was three feet from the fence and five feet from Mr. Loury.<sup>326</sup>

303. Video of the alley

a. Video of the car stop

- 1.) Mr. Loury can be seen exiting the front passenger door and running out of camera view.<sup>327</sup>

b. Video of the Alley

- 1.) Mr. Loury enters the alley at the 4 second mark on the video and turned behind the side of the garage at 6 seconds on the video.
- 2.) Officer Hitz entered the alley at the 8 second mark and turned along the side of the garage at the 11 second mark.
- 3.) Officer Riordan entered the alley at the 24 second mark and turned along the side of the garage at the 28 second mark.<sup>328</sup>

304. Medical Examiner's Report

- a. There was a single, entry gunshot wound to Mr. Loury's chest, located 12 inches in the top of his head and 0.6 inches to the left of the anterior midline. The wound path is front to back and diagonally from left to right and slightly upward.<sup>329</sup>
- b. The cause of Mr. Loury's death was a gunshot wound to the chest.<sup>330</sup>

305. In this case, Officer Hitz had received information over the police radio that subjects in a black vehicle had been involved in three shootings. The first on 16<sup>th</sup> and Drake, then on 16<sup>th</sup> and Christiana, and finally at S&R Grocery on W. 16<sup>th</sup> Street.<sup>331</sup> Information was broadcast at 7:40:55 PM regarding the grocery store shooting. The description of the vehicle was a black Toyota. Later investigation revealed video of a passenger in a black car firing 10 rounds out of the passenger window. Officer Hitz and Riordan locate the

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<sup>323</sup> Hitz deposition at 177.

<sup>324</sup> Hitz deposition at 179.

<sup>325</sup> CITY 002385-7.

<sup>326</sup> Hitz deposition at 185.

<sup>327</sup> Slow Motion Video.

<sup>328</sup> City 002299.

<sup>329</sup> IPRA 000367.

<sup>330</sup> IPRA 000371.

<sup>331</sup> IPRA 001309.

black vehicle pointed out to them less than 3 minutes later at 7:43:11 PM and the shooting by Officer Hitz occurred 25 seconds later at 7:43:36 PM.<sup>332</sup>

- a. The vehicle was pointed out to Officers Hitz and Riordan by citizens who yelled to the officers that subjects inside the vehicle were shooting a gun.
- b. The officers stopped the suspect vehicle and when the driver yielded to the side of the road, Mr. Loury immediately exited the front passenger door and fled on foot.
- c. Officer Hitz immediately exited his marked police vehicle and chased Mr. Loury.
- d. Officer Hitz said as Mr. Loury ran, he concealed his hands in front of his body near his waistband and he did not swing his arms in a manner consistent with running.
- e. Based on all of these facts known to Officer Hitz, a reasonable police officer would believe that Mr. Loury had been involved in a shooting, that he was attempting to flee, and based on the totality of the circumstances that he was armed with a firearm. Interestingly, both Mr. Clark and Mr. Scott ignore all of these facts in their assessments of the reasonableness of Officer Hitz's use of deadly force.
- f. Officer Hitz chased Mr. Loury for approximately 17 seconds based on the officers' mobile video. The video of the alley showed Officer Hitz was about 4-5 seconds behind Mr. Loury. The video also shows both Mr. Loury and Officer Hitz running and that Officer Hitz did not stop as he turned the corner around the garage in the alley.
- g. Officer Hitz said once he turned past the garage, he saw Mr. Loury trying to scale a wrought iron fence and that Mr. Loury had one leg on each side of the fence. Officer Hitz said he gave Mr. Loury commands, but Mr. Loury ignored those commands and instead he retrieved a handgun from his waistband, fumbled with the gun, and dropped it on the ground. Officer Hitz said Mr. Loury then kicked himself off of the fence, landed on the gun, then turned in his direction and pointed the gun at him.
- h. Based on these circumstances, a reasonable officer would believe their life was at immediate threat of death or serious bodily. Police officers are trained to respond with deadly force in such a situation. Moreover, Officer Hitz was confronted with a deadly threat and had to make a determination under tense, uncertain circumstances and incredible time constraints. Officer Hitz was alone, in an alley confronted by an individual whom a reasonable police officer would believe was armed and who had been engaged in violence by shooting his gun several times.
- i. Officer Hitz's use of deadly force by shooting two rounds at Mr. Loury is consistent with generally accepted police practices and objectively reasonable.

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<sup>332</sup> IPRA 001309.

306. Mr. Scott contends that Officer Hitz only had 1.1 seconds to view the actions he claims occurred from the time he saw Mr. Loury on the fence until the time of the shooting. Moreover, Mr. Scott opines Mr. Loury could have only been on the ground for .33 of a second and could not have grabbed the gun and turned toward Officer Hitz in that time frame.<sup>333</sup>

- a. Mr. Scott's claim is nothing more than mere speculation. Indeed, he concedes "it is possible for the shooting to have occurred as Officer Hitz has alleged with Pierre Loury on the ground," but he claims the probability is remote.<sup>334</sup>
- b. Mr. Scott relies on his estimation of the time it took Officer Hitz to reach the area of the shooting, but he has no factual basis to make such an estimation. Rather than offering a range, Mr. Scott estimates the exact time Officer Hitz arrived and extrapolated his opinions based on what is nothing more than a guess. If Mr. Scott's estimate is off by as little as  $\frac{1}{2}$  - 1 seconds, his opinion would be undermined.
- c. Mr. Scott determined Officer Hitz's speed by claiming Officer Hitz covered 29 feet in the alley in 1.5 seconds and then applied that speed estimation to Officer Hitz's speed in the 150-foot vacant lot, yet Mr. Scott has no way of knowing if Officer Hitz was running faster or slower through the vacant lot as compared to the alley.
- d. Mr. Scott also relies on a 1983 article by Dennis Tueller for his opinion that the average person can cover 21 feet in 1.5 seconds and that Officer Hitz was running at a rate of 21 feet per 1.5 seconds.<sup>335</sup> Mr. Scott uses this study to support his conclusion that Officer Hitz ran 179 feet in 9.25 seconds creating the illusion that Officer Hitz's statement regarding the actions of Mr. Loury are inaccurate.
  - a. Lt. Tueller wrote an article for a policing magazine in 1983 to suggest a safe distance for police officer when confronting a person armed with a bladed weapon. While Lt. Tueller raises interesting issues, his conclusion is merely that an officer should maintain a safe distance and understand that a suspect may be able to cover distance quickly.
  - b. Unfortunately, over the years Lt. Tueller's article somehow morphed into what is now a thoroughly discredited "21-foot rule," that was never a "rule" at all. Moreover, Mr. Scott relies on the article for the proposition that the average person could cover 21 feet in 1.5 seconds, yet Lt. Tueller has no academic background for such analysis, there were no tests that underwent academic rigor, there was no peer review by any academic, and even Lt. Tueller wrote in his article that 1.5 was an estimation.<sup>336</sup>
  - c. Moreover, Mr. Scott states the length of the vacant lot was 150 feet, while

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<sup>333</sup> Scott report at 20-21.

<sup>334</sup> Scott report at 19.

<sup>335</sup> Scott report at 8.

<sup>336</sup> [http://www.theppsc.org/Staff\\_VIEWS/Tueller/How.Close.htm](http://www.theppsc.org/Staff_VIEWS/Tueller/How.Close.htm)

the crime scene diagram lists the distance as 128 feet.<sup>337</sup>

- d. Mr. Scott's reliance on this type of unsupported research to draw his conclusions severely undermines his opinions.
- e. Mr. Scott relies on an article by Alexander Jason<sup>338</sup> to determine the amount of time (Mr. Scott claims 1.1 seconds) it would take a person to fall to the ground. Yet, Mr. Jason's article was not published in a reputable scientific journal, there is no indication in the article or on Mr. Jason's website of Mr. Jason's educational background to conduct such a study, the article does not contain a single citation or footnote to support the author's research or opinions, the article states the sample size consisted of merely 5 individuals, and all of the test subjects dropped to the ground rather than kicking themselves off of a fence, head down, while trying to escape from the police. Mr. Scott said he relied on this article because it is the only article he is aware of that estimates the time of a falling person.<sup>339</sup> No reasonable expert would rely on such an article and his estimation of the amount of time it took Mr. Loury to kick himself off of the fence to ground cannot be supported by evidence, rather it is nothing more than a guess.
- f. Mr. Scott's opinions lack evidence or academic support and cannot be relied upon.

307. GSR was found on both of Mr. Lory's hands, meaning he had fired a gun, contacted primer residue, or had both hands in the environment where a gun was fired.<sup>340</sup>

308. The gun located at the scene was determined to be the same gun that was fired at the grocery store minutes prior to the shooting involving Officer Hitz.<sup>341</sup>

309. I agree with the conclusions of IPRA that the evidence linking Mr. Loury to the other shooting makes it unlikely that the recovered gun was "planted," and the fact that Mr. Loury had been involved in the earlier shooting incident provides an explanation for Mr. Loury's actions.<sup>342</sup>

310. Based on the totality of the circumstances, the use of deadly force by Officer Hitz was objectively reasonable and consistent with generally accepted police practices, and therefore any alleged Monell violation could not have been the moving force behind or proximate cause of Hitz's deadly use of force.

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<sup>337</sup> IPRA 000352.

<sup>338</sup> "Shooting Dynamics: Elements of Time & Movement in Shooting Incidents," Alexander Jason, Investigative Sciences Journal, Vol. 2, Number 1, January 2010.

<sup>339</sup> Scott deposition at 54.

<sup>340</sup> IPRA 001323.

<sup>341</sup> IPRA 001328.

<sup>342</sup> IPRA 001329.

### **Mr. Clark Lacks the Expertise to Opine on Administrative Investigations and His Failure to Review the Underlying Data in the DOJ Investigation Severely Undermines His Opinions**

311. Mr. Clark lacks the training, education or practical experience necessary to opine on the reasonableness of administrative investigations, his lack of knowledge of the CPD disciplinary system impacts his ability to opine on the reasonableness of the CPD's disciplinary actions and his failure to review the underlying data that formed the basis of the DOJ report impacts his ability to opine on the reasonableness of DOJ's conclusions.

- a. Mr. Clark retired as a lieutenant from the Los Angeles County Sheriff's Department in 1993. He served for 27 years as a deputy, sergeant and lieutenant. Mr. Clark never worked an assignment in the internal affairs bureau of the Los Angeles County Sheriff's Department or at any other agency.
- b. Mr. Clark's only formal education is an Associate of Science Degree. Mr. Clark's resume indicates that he holds both an advanced and management certification from California's Peace Officers Standards and Training (POST). Both certifications merely indicate Mr. Clark's tenure with the department and in the case of the management certificate indicate that he was employed as a lieutenant for at least two years, that he attended a management course (80 hours) and that he had at least 60 college units. California POST certificates should not be looked at to determine competency. These certificates do not require a course of study or any type of examination. Rather, they may be achieved through longevity and assignment alone.
- c. Mr. Clark testified that he was involved two to three dozen cases in which he investigated police officers for some form of misconduct in which he did the investigation or relied on others to do the investigation.<sup>343</sup> In prior depositions, Mr. Clark elaborated, saying his experience in conducting administrative investigations was limited to those that he may have conducted as a Watch Commander and as a lieutenant. Mr. Clark testified in his *Moore* deposition<sup>344</sup> that he investigated between 24 and 36 complaints of officer misconduct in his career, of which 60-70% resulted in some type of informal counseling and the rest would result in something "formal."<sup>345</sup>
- d. Mr. Clark said he never attended a detective school,<sup>346</sup> or a formal class devoted to Internal Affairs.<sup>347</sup>
- e. Mr. Clark said he was never assigned to Internal Affairs and while he worked for the Los Angeles County Sheriff's Department<sup>348</sup> he never reviewed the Internal Affairs

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<sup>343</sup> Clark deposition in *Lane* at 126-127

<sup>344</sup> *Moore v. City of Chicago*.

<sup>345</sup> Roger Clark deposition in *Moore* at 72.

<sup>346</sup> Clark deposition at 101.

<sup>347</sup> Clark deposition at 103.

<sup>348</sup> Clark deposition at 84.

policies to evaluate the Internal Affairs Unit.<sup>349</sup>

- f. Mr. Clark has not published anything on administrative investigations or anything else.<sup>350</sup>
- g. Police administrative investigations are unlike those investigations conducted by police officers in the field on criminal matters. Although there is a significant overlap there are also significant differences. Administrative investigations require knowledge of administrative law, different standards for sustaining allegation (e.g., preponderance of evidence vs. beyond a reasonable doubt), employee contractual rights, state and local employment laws and a wide variety of other issues. Simply because one has experience in policing does not mean that the individual has training or experience in evaluating administrative investigations.
- h. Even in the areas that overlap, Mr. Clark lacks experience. For example, Mr. Clark has limited experience questioning suspects, witnesses or police officers suspected of misconduct. His last interrogation of a suspect was in 1991, and the last one he led before that was in the early to mid-1970's.<sup>351</sup>
- i. Mr. Clark has not continued his formal training or education since he retired in 1993.<sup>352</sup>
- j. Mr. Clark has never taken a formal course of instruction on Internal Affairs,<sup>353</sup> nor did he receive formal instruction on interviews, interrogations, or to be a detective, rather he relied on on-the-job training.<sup>354</sup> On-the-job training is helpful, but it should complement formal education, not replace it.

312. It is important to understand that while Mr. Clark relies on his skills and anecdotal knowledge of Internal Affairs while he was at the LASD, the Kolts Commission, formed in 1991, found pervasive abuses by members of the sheriff's department and the sheriff's department's failure to accept and investigate citizen complaints.

- a. The principal conclusion was that within LASD there is deeply disturbing evidence of excessive force and lax discipline.<sup>355</sup>
- b. Civilians attempting to lodge complaints at the charged officer's station are ignored, subjected to verbal abuse, and in some instances arrested.<sup>356</sup>
- c. Investigations of citizen complaints of excessive force are frequently closed before

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<sup>349</sup> Clark deposition in *Lane* at 140-141 and Clark deposition at 87-8.

<sup>350</sup> Clark deposition in *Lane* at 143.

<sup>351</sup> Clark deposition in *Lane* 84-85, 91

<sup>352</sup> Clark deposition in *Lane* at 49.

<sup>353</sup> Clark deposition in *Lane* at 51-52.

<sup>354</sup> Clark deposition in *Lane* at 70.

<sup>355</sup> Kolts report at 351.

<sup>356</sup> Kolts report at 100.

completion – at times under highly suspicious circumstances.<sup>357</sup>

- d. Citizen complaints corroborated by physical evidence and independent witnesses are frequently not sustained.<sup>358</sup>
- e. Upon receiving a complaint, the concerned captain orders a “supervisor Inquiry” by the watch commander (usually a lieutenant) who was on duty when the alleged misconduct occurred. The inquiry generally includes reviewing the arrest report and speaking informally with the parties involved.<sup>359</sup> It appears that when Mr. Clark described the 24-36 investigations that he conducted that he was conducting a “supervisory inquiry” as described by the Kolts report and not an investigation.
- f. There was evidence that complaints would “disappear.” Complaints would have to clear the deputy at the desk, the sergeant and the watch commander. By the time the captain shows up the next morning, there’s nothing for him to see.<sup>360</sup>
- g. A captain could stop an investigation, but the complainant had no right to appeal the captain’s decision that a formal investigation is unwarranted.<sup>361</sup>
- h. The Kolts report found that the LASD would discourage complaints, refused to accept complaints, made minimal efforts at investigating complaints, placed numerous hurdles to avoid investigations and when they did conduct an investigation, they did a poor job.

313. Mr. Clark was unfamiliar with the term “SPAR.”<sup>362</sup> This lack of knowledge of the CPD disciplinary system where over 3,000 separate disciplinary actions between a letter of reprimand of a three-day suspension are imposed by supervisors on their officers without a citizen complaint annually undermines Mr. Clark’s ability to opine on the disciplinary systems of the CPD. Moreover, Mr. Clark relied on what he claims to be a finding in the DOJ that the CPD fails to impose discipline on minor transgressions. First, Mr. Clark could not identify where in the DOJ report this finding was made<sup>363</sup> – indeed, Mr. Clark was incorrect and the DOJ did not make such a finding, but if he were aware of SPARs and the volume of these actions by supervisors each year for minor transgressions, he would have known that such a finding was not possible.

314. Although the data underlying the DOJ report was provided to the plaintiff, Mr. Clark did not review any of the material and instead he blindly accepts the conclusions of the DOJ report. As described above, there are many shortcomings with the DOJ investigation that Mr. Clark should have likely recognized had he reviewed the material. Mr. Clark said he

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<sup>357</sup> Kolts report at 100.

<sup>358</sup> Kolts report at 100.

<sup>359</sup> Kolts report at 101.

<sup>360</sup> Kolts report at 107.

<sup>361</sup> Kolts report at 102.

<sup>362</sup> Clark deposition in *Lane* at 230.

<sup>363</sup> Clark deposition in *Lane* at 373.

did not know what the DOJ did in terms of evaluating the shooting cases they reviewed.<sup>364</sup>

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Jeffrey J. Noble

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Date

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<sup>364</sup> Clark deposition at 209.