

INDEPENDENT POLICE REVIEW AUTHORITY  
PUBLIC REPORT OF INVESTIGATION

**INVESTIGATION**

**NUMBER:** U# 08-01, Log#1013535

**OFFICER(S)  
INVOLVED:**

“Officer A” (Chicago Police Department Probationary Officer); Male/White Hispanic; 36 years old; Off-duty; In civil dress; Year of Appointment — 2007

**OFFICER  
INJURIES:**

None reported.

**SUBJECT(S)  
INVOLVED:**

“Subject 1”; Male/Hispanic; 32 years old

**SUBJECT  
INJURIES:**

Gunshot wounds to the left arm and right hand; possible graze to left chest area

**INITIAL  
INCIDENT:**

Off-duty PPO observes offender breaking into vehicle

**DATE/ TIME:**

20 January 2008, 1055 hours

**LOCATION:**

1901 S. Union  
Beat 1233

**SUMMARY OF INCIDENT:**

On 20 January 2008, at approximately 1045 hours, Officer A, who was off-duty and in civilian dress, was on his way to attend mass at his church. Officer A parked and exited his vehicle in the church parking lot that is located beneath the Dan Ryan Expressway at 1901 S. Union. Officer A heard glass breaking and observed a male/Hispanic, now known as Subject 2, reaching into a green Ford Explorer that had a broken window. The Ford Explorer was parked on the same lot.

Officer A said he identified himself as a police officer, pulled out his badge and began pulling out his gun. Officer A then observed a red Nissan Xterra in the lot, driven by a second male/Hispanic, now identified as Subject 1. Subject 1 began to drive away. Subject 2 ran to the Nissan, jumped onto its passenger side running board and fired a gun two to three times at Officer A. Officer A fired his weapon seven times at Subject 2. Officer A followed the subjects in his personal vehicle, driving west on 19<sup>th</sup> Street and north on Halsted. Near 18<sup>th</sup> and Halsted, Officer A saw a Cook County Sheriff's Department car that was parked on the street. Officer A alerted two Cook County Sheriff's investigators who were inside the car. The two Cook County investigators assisted Officer A by touring the area for the Nissan with negative results. (Officer A later positively identified Subject 1 and Subject 2 from a photo spread as the two subjects involved in the incident at the church parking lot.)

Detectives met with Witness 1 later that same day. Witness 1 related that her brother, Subject 1, had borrowed her Nissan Xterra earlier that day. After a few hours, Witness 1 contacted Subject 1 by phone and asked about the whereabouts of her vehicle. Subject 1 told her that her vehicle's windows had been shot out during a drive-by shooting and he would be home shortly. The Xterra was supposed to be at 51<sup>st</sup> and Winchester. When Subject 1 arrived home, Witness 1 observed that his right hand had been injured and that it was bleeding. Witness 1 was driven to 51<sup>st</sup> and Winchester, learned that the Xterra was not there and then called the police. She provided officers with Subject 2's name as being that of a friend of Subject 1. Detectives located the Xterra, which had multiple bullet holes, near 50<sup>th</sup> and Winchester. Officers located Subject 2 and Subject 1 in an apartment at 2000 W. Foster and took them into custody. No weapon was recovered. Subject 1 was transported to Mount Sinai Hospital. He had first been treated by Subject 2's girlfriend, who was a veterinarian's assistant.

**INVESTIGATION:**

Officer A related to the Roundtable panel that he was late for church. He exited his vehicle (in the parking lot) and then heard glass breaking. Officer A walked towards the noise and observed Subject 2 reaching into a vehicle whose window had been broken. Officer A identified himself as a Chicago Police Officer, showed his badge and began pulling out his weapon. Subject 2 ran to a red Nissan Xterra driven by Subject 1. Subject 2 jumped on the “paddle board” of the Nissan and fired a gun at Officer A over the hood of the Nissan. Officer A heard two to three shots. Officer A backed into a corner on the parking lot and fired five or six times at the subject firing at him. Officer A was standing approximately ten to fifteen feet from the Nissan when he fired. Officer A saw the gun in Subject 2’s hand before Subject 2 fired at him. Officer A saw the flash of the muzzle when the gun was fired. Officer A followed the Nissan in his personal vehicle and on 18<sup>th</sup> Street, he observed a Cook County Sheriff’s Department squad car. Officer A requested assistance from the Cook County officers to follow the subjects. The three officers searched for the Nissan but were unable to locate it. Officer A did not call for assistance when he initially saw Subject 2 because he identified himself and showed his badge and was then fired at by Subject 2 in a matter of seconds. Officer A did not have time to use his phone prior to being fired at. Officer A identified both offenders from the church parking lot when shown a photo array.

INDEPENDENT POLICE REVIEW AUTHORITY  
Log#1013535; U #08-01

**INVESTIGATION (Continued):**

Subject 2 and Subject 1 refused to be interviewed by IPRA (Subject 2 used an alias, “[Alias 1],” when IPRA attempted to interview him.).

The Cook County Sheriff’s investigators, Witness 2 and Witness 3, related to IPRA that at the time of the incident, they were working as part of their department’s electronic monitoring unit. Witness 2 said that he and Witness 3 were sitting in their car at approximately 724 W. 19<sup>th</sup> St. Witness 2 heard between three and four rapid-fire gunshots, possibly from more than one weapon. He did not hear any voices immediately before or after the shots. Both investigators took cover inside their squad car. After approximately 20 to 30 seconds, a vehicle that might have been a red Durango sped past the two investigators’ car. A couple of seconds later, another vehicle, which contained a male off-duty police officer (Officer A), drove up to the County squad car and stopped. Officer A said he had exchanged gunfire with a male in the “Durango.” Witness 2 and Witness 3 drove around the area of the incident but did not locate the “Durango.”

Witness 3’s account was consistent with Witness 2’s account. In addition, Witness 3 said the off-duty Chicago police officer (Officer A) said, “They shot at me and I shot back.”

INDEPENDENT POLICE REVIEW AUTHORITY  
Log#1013535; U #08-01

**INVESTIGATION (Continued):**

The canvass produced no witnesses. The security cameras at Jane Addams School, 1814 S. Union, recorded movement of police vehicles and personnel only after the incident.

Officer A's Tactical Response Report indicates that he fired seven shots and he was more than 15 feet from Subject 2 when he fired at him.

The event queries from the Office of Emergency Management and Communications and the transmissions on the OEMC disc indicate that Officer A immediately reported his weapon discharge.

Photographs from Forensic Services Division investigators and from Evidence Technicians depict the shooting scene, the Nissan Xterra, Subject 1 and Subject 2.

A report from the Illinois State Police, Division of Forensic Services, dated 06 Feb 2008, indicates that Officer A's 9mm pistol was examined, found to be in firing condition and test fired. A fired bullet surgically removed from Subject 1 was found to have been fired from the pistol. In addition, two other fired bullets recovered from the Xterra and seven casings recovered at the scene were found to have been fired from the pistol.

**INVESTIGATION (Continued):**

An ISP report dated 15 Oct 08 indicates that two latent print lifts, from the burglarized Ford and the Xterra, revealed no impressions suitable for comparison.

Subject 1's and Subject 2's Arrest Reports indicate that they were charged with attempted murder and burglary. Their criminal case is pending.

In his statement to the R/I on 30 Apr 08, PPO (now officer) A provided an account that was consistent with his Roundtable account. In addition, Officer A said that when he fired his weapon, he was aiming at the SUV's passenger (Subject 2) who was shooting at him. The SUV driver (Subject 1) was wounded because he was in the line of fire. Officer A did not observe any injury on either Subject 2 or Subject 1 at the scene. After Officer A alerted the Sheriff's investigators about the incident, he remained on the scene and waited for backup. Officer A called 911 on his cell phone to report the shooting.

The detectives' Case Supplementary Report includes accounts of the incident from Officer A and the sheriff's investigators that are consistent with their accounts already summarized in this report. In addition, Subject 1 told detectives, in multiple interviews, that Subject 2 had directed him to drive the Xterra into the parking lot on Union. Subject 2 exited the Xterra. Subject 1 parked the Xterra and heard glass breaking. A male/Hispanic (Officer A), who parked a vehicle on the lot, approached Subject 2 and

**INVESTIGATION (Continued):**

called out to him. Subject 2 entered the Xterra and Subject 1 began to drive away. Officer A produced a handgun, shouted that he was a police officer and for Subject 1 to stop the Xterra. Officer A fired at the Xterra. In one of his interviews with detectives, Subject 1 said that while driving out of the lot, he ducked down in his seat and heard multiple gunshots. Subject 1 could not tell where the shots were coming from. As he drove away from the parking lot, Subject 1 did not see a gun in Subject 2's hand, but he was concentrating on the pain in his wounds and trying to escape. Subject 1 had seen Subject 2 with handguns in the past.

The Case Supplementary Report also indicates that Subject 2 told detectives that Subject 1 had arrived at the apartment at 2000 W. Foster in the early afternoon of 20 Jan 08 and said he had been shot by gangbangers near his house.

**CONCLUSION AND FINDING:**

This investigation found that the use of deadly force by Officer A was in compliance with Chicago Police Department policy and Illinois State statutes. According to the Chicago Police Department's General Order 02-08-03, III:

A. "a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

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

Officer A's account of the incident is supported by the preponderance of the evidence, which includes the accounts from Subject 1 to the detectives and the accounts from the Sheriff's investigators.

Subject 1 said that after Subject 2 exited the Xterra, he heard glass breaking and Officer A identifying himself as a police officer, which is consistent with Officer A's account. Even though Subject 1 said he did not see a gun in Subject 2's hand, and no



**CONCLUSION AND FINDING (Continued):**

offender's weapon was recovered, Subject 1 said he heard multiple gunshots and could not tell where the shots were coming from. Subject 1's account is not inconsistent with Officer A's assertion that Subject 2 was armed and fired at him.

Subject 2's account to the detectives (that Subject 1 said he had been shot by gangbangers near his house) is not credible because it is completely contradicted by Subject 1's account, which placed Subject 1 and Subject 2 at the scene of the shooting and is supported by the fired evidence. The fired evidence indicates that Officer A fired at Subject 1's borrowed Xterra, which Subject 1 said he was driving with Subject 2 as his passenger.

Furthermore, Witness 2 said the gunshots he heard were possibly from more than one weapon. Witness 3 said that Officer A said, "They shot at me and I shot back," which was stated immediately after the incident.

The accounts from Subject 1 and the Sheriff's investigators lend credibility to Officer A's description of the incident and significantly, do not contradict his description.

Because of the credibility of Officer A's account, it is believable that Subject 2 fired at him, and Officer A fired back while in reasonable fear for his life.