

INDEPENDENT POLICE REVIEW AUTHORITY

**INVESTIGATION
NUMBER:**

LOG# 1017558/U# 08-20

**OFFICER
INVOLVED #1:**

"Officer A" (Chicago Police Officer); Male/White; 27 years old; On-Duty; In uniform; Year of Appointment – 2003

**OFFICER
INJURIES:**

None Reported

**OFFICER
INVOLVED #2:**

"Officer B" (Chicago Police Officer); Male/White; 28 years old; On-Duty; In uniform; Year of Appointment – 2003

**OFFICER
INJURIES:**

None Reported

**OFFICER
INVOLVED #3:**

"Officer C" (Chicago Police Officer); Male/White; 36 years old; On-Duty; In uniform; Year of Appointment – 1998

**OFFICER
INJURIES:**

None Reported

**OFFICER
INVOLVED #4:**

"Officer D" (Chicago Police Officer); Male/Black; 34 years old; On-Duty; In uniform; Year of Appointment – 2007
(Did not discharge)

**OFFICER
INJURIES:**

None Reported

SUBJECT:

"Subject 1"; Male/Black; 37 years old

**SUBJECT
INJURIES:**

Fatal. Multiple gunshot wounds to the right side of face, upper back, buttocks, lower back, right thigh, right knee, right ankle and left thigh.

DATE/TIME

22 June 2008, 0102 hours

LOCATION:

2300 block of East 85th Street
Beat 412

SUMMARY OF INCIDENT:

On 22 June 2008, at approximately 0102 hours, Officer B (driver) and Officer A (passenger), both in uniform, were proceeding northbound on Yates Avenue in the vicinity of 86th Street in an unmarked police vehicle. Officer C and Officer D, both in uniform, were following in a marked police vehicle. As the officers approached 85th Street and Yates, they heard a loud report west of Yates on 85th Street. The officers turned westbound and observed several unknown individuals including Subject 1 standing on the sidewalk at the mouth of an alley near a garage on the 2300 block of East 85th Street. As the officers approached, Subject 1 fled on foot into the vestibule at a building on the 2300 block of East 85th Street. Officer B and Officer A observed Subject 1 holding a gun in his right hand.

The officers exited their vehicles and pursued on foot. Subject 1 turned in the direction of the officers and pointed handguns at them. Officer B and Officer A identified themselves and ordered Subject 1 to drop his weapons. Subject 1 failed to comply and Officer B, Officer A and Officer C discharged their weapons. Officer B fired approximately ten times, Officer A four times and Officer C five times. Subject 1 collapsed and the officers radioed for assistance and paramedics. Chicago Police Sergeant A responded and observed Subject 1 on the floor of the vestibule and also saw two handguns next to Subject 1. Chicago Police Sergeant A moved the weapons out of the reach of Subject 1 using a plastic bag. Subject 1's body was removed by a Chicago Fire Department

ambulance and the Medical Examiner pronounced Subject 1 deceased at 0440 hours.

INVESTIGATION:

Witness 1 related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Witness 1 stated that he was inside his residence on the 2300 block of East 85th Street, when he heard gunshots coming from outside. Witness 1 ran out of his residence, and as he reached the bottom of the stairs he opened the hallway door and observed Subject 1 lying on his stomach on the floor with blood about his body. Witness 1 observed two handguns next to Subject 1's body. Witness 1 looked up and saw two male/white officers with their weapons pointed at him. The officers yelled for Witness 1 to get on his knees. Witness 1 complied and he was removed from the area. (Att. #4)

Officer B related to the Roundtable panel an account that was consistent with the Summary of Incident. Officer B stated that he and Officer A, assisted by Officer C and Officer D, were on a traffic stop north of Yates on South Chicago Avenue. As the officers completed the traffic stop they were traveling north on Yates when Officer B heard gunfire coming from west of his location. Officer B and Officer A, driving in an unmarked squad car, followed by Officer C and Officer D in a marked squad car, drove toward the sound. Upon arrival, Officer B observed Subject 1 standing at the mouth of an alley holding a gun in his right hand. As the officers approached, Subject 1 ran westbound on the sidewalk.

Officer B, who was driving, stopped his vehicle and observed Subject 1 run to the front door of a building on the 2300 block of the East 85th Street. Officer B stated that he exited the vehicle with his weapon drawn and stood at the right front corner of the unmarked vehicle. Subject 1 opened the door to the building and Officer B yelled, "Drop the weapon!" Subject 1 was standing in between the front door and the hallway in a vestibule/breezeway. Subject 1 turned and pointed the weapon at the officers. Officer B fired approximately eight to nine times. Subject 1 collapsed to the floor and Officer B secured the area. Officer A radioed in shots fired by the police and called for an ambulance. Officer B then observed an unknown male black, now known as Witness 1, open the hallway door. Officer B and Officer A grabbed Witness 1, pulled him outside and handcuffed him. Officer B observed two handguns next to Subject 1. Chicago Police Sergeant A arrived and observed Subject 1 moving around so he secured and covered the weapons, removing them from Subject 1's reach. (Att. #4)

Officer A related to the Roundtable panel an account that was consistent with the Summary of Incident. After a traffic stop, Officer B and Officer A were traveling northbound on Yates toward 85th Street. Officer A heard a single gunshot west of their location. The officers arrived in the area of 85th and Yates and Officer A observed Subject 1 standing on the sidewalk at the mouth of the alley on 85th Street with a gun in his hand. As the officers approached in their vehicle, Subject 1 looked in their direction and fled westbound on 85th Street. Subject 1 ran to a building on the 2300 block of East 85th Street. The officers stopped and exited their vehicle. At the building on the 2300 block of East 85th

Street, Subject 1 turned toward the officers with weapons in both hands. Officer A fired approximately five times. Subject 1 fell to the floor inside the building and Officer A observed two weapons next to Subject 1 on the floor. (Att. #4)

Officer C related to the Roundtable panel an account that was consistent with the Summary of Incident. Officer C stated he and his partner, Officer D were northbound on Yates when they heard a gunshot. Officer B and his partner turned left onto 85th Street and Officer C and his partner followed. Officer C observed Subject 1 run westbound on the sidewalk and turn to a door on the 2300 block of East 85th Street. Officer B and Officer A stopped their vehicle and exited with weapons drawn. Officer C then observed Subject 1 run to the door of a building on the 2300 block of East 85th Street. Officer C exited his vehicle, weapon drawn, and approached. Subject 1 turned and pointed a weapon at Officer B and Officer A.

Officer C fired seven times and Subject 1 fell to the floor inside the hallway. Officer C observed an inside door open and an unknown male black, now known as Witness 1, exit from the door. Witness 1 was instructed by Officer B and Officer A to get on the ground and he complied. Officer B secured the scene and Officer A radioed for assistance. (Att. #4)

Chicago Police Sergeant A related to the Roundtable panel that he is on the Tactical Response Unit ("TRU"), and he responded to a call from OEMC for an assist from Officer B, Beat 423B, in regards to shots fired by the police. Chicago Police Sergeant A did not hear any shots fired prior to his arrival at the scene. Chicago Police Sergeant A approached the main door of a residential

building on the 2300 block of East 85th Street and observed two officers struggling with an unknown male black, later identified as Witness 1. Chicago Police Sergeant A observed Subject 1 lying on the floor inside the doorway. Subject 1 was moving around on the floor. Two guns were by Subject 1's right elbow and hand. Chicago Police Sergeant A asked the officers to give him a plastic bag he had observed on the sidewalk. Chicago Police Sergeant A covered the weapons with the plastic bag and moved them out of the reach of Subject 1. Chicago Police Sergeant A remained with the weapons until the arrival of the Crime Scene Investigators. (Att. #4)

Detective A related to the Roundtable panel that the Medical Examiner Investigator informed him that Subject 1 sustained multiple gunshot wounds; three wounds to the rear, one wound to the left shoulder, one wound to the right cheek and one wound to the right ankle. Subject 1 was pronounced at 0440 hours. (Att. #4)

In a statement to IPRA on 15 Oct 09 the Involved Member, **Officer B** provided an account of the incident that is consistent with the Summary of Incident, related Department reports and the account he provided to the Roundtable panel. Officer B stated that he and his partner had just completed a traffic stop at 86th and Yates and then proceeded northbound. Officer C and Officer D, who assisted in the traffic stop, followed behind them in a marked squad car. Officer B, who was driving the unmarked squad car, heard a shot and observed a male black, now known as Subject 1, standing with two females, at the mouth of an alley with a blue-steel gun in his right hand. Subject 1 saw the

officers and fled westbound. Officer B drove a little further then he and his partner Officer A exited the car and pursued Subject 1, on foot, to the doorway of a building on the 2300 block of East 85th Street.

Officer C and Officer D exited their vehicle and also pursued Subject 1 on foot. Officer B advised that, during the pursuit, he said, "Police, stop, drop the weapon, put your hands up," over and over. Subject 1 did not respond. Subject 1 reached the building on the 2300 block of East 85th Street, entered the breezeway and turned towards the officers, pointing a gun at Officer B and the other officers. The officers, in fear for their lives, fired at Subject 1. Officer B stated he was standing off center of the doorway when he fired at Subject 1; Officer A was to Officer B's left and almost directly in the doorway; Officer C was to the left of Officer A and Officer D was further to the left.

Only when Subject 1's arm holding the gun pointed away from the officers, did Officer B stop firing. It was at that time that Subject 1 fell to the floor. Officer B entered the doorway of the breezeway but did not fully enter the breezeway as it was a very small room. Officer B observed Subject 1 lying on his side with two guns, one in each hand. Just prior to that, Officer B radioed for EMS and to the zone that shots had been fired by the police. A male black, Witness 1, then came from upstairs and tried to exit out of the breezeway. Subject 1 was blocking the door. Officer B ordered Witness 1 to go back inside and he refused. At that time Witness 1 looked down and observed both of the guns next to Subject 1. Officer B pulled Witness 1 towards him, out of the breezeway and handed him over to Officer C.

Chicago Police Sergeant A arrived at the scene and after going into the breezeway he reached towards the guns. Officer B told Chicago Police Sergeant A to stop but Chicago Police Sergeant A said that Subject 1 was moving around. Officer B looked down and observed Subject 1 moving his hands. Officer A handed Officer B a plastic bag which was given to Chicago Police Sergeant A who moved the weapons with the plastic bag. Officer B stated that Subject 1 did not have his back towards him when Officer B fired. Subject 1 had the second gun near his left hand when he fell so Officer B assumed that Subject 1 had the gun in his left hand while he was running from the officers. Officer B only saw Subject 1 point one gun. Officer B stated that he did not handle any evidence other than the plastic bag at the scene. (Att. #51-57)

In a statement to IPRA on 22 Oct 09 the Involved Member **Officer A**, provided an account of the incident that is consistent with the Summary of Incident, related Department reports and the account he provided to the Roundtable panel. Officer A stated that he and Officer B were traveling northbound on Yates and at 85th Street; they heard a single gunshot to the west so they turned westbound on 85th Street. Officer A observed Subject 1 in the mouth of the alley on the south side of 85th Street. There were two females with him.¹ As Subject 1 fled westbound, Officer A observed that Subject 1 was holding a handgun in his right hand. Subject 1 looked in the officers' direction and fled westbound on 85th Street. Past the mouth of the alley, Officer A exited

¹ Officer A stated that the two females fled the area after Subject 1 ran and were not identified or located after the incident.

the vehicle on the passenger side and said something to the effect of, "Police!" "Drop the gun!" "Drop the gun!" The two unknown females stayed in the alley.

Subject 1 reached a building on the 2300 block of East 85th Street, entered and opened the exterior door, entered the vestibule/breezeway and attempted to open the interior door. When Subject 1 was not able to open the interior door he turned around, raised both hands, with a gun in each hand, to approximately his chest area and pointed the guns in the officers' direction. Officer A was parallel with the front door, on 85th Street, just north of the curb, when Subject 1 pointed the weapons. Officer A was ten to fifteen feet from Subject 1 and fired his weapon. When Officer A fired his weapon, Officer B was to his right and Officer C was to his left. Officer A did not enter the vestibule.

A male black, Witness 1, wearing a red t-shirt came down the stairs from inside the building and opened the second door. The officers instructed Witness 1 to go back upstairs but he kept looking down to the ground. Officer B or Officer C pulled him out of that area and escorted him to the parkway area. Officer A never entered the vestibule.

Officer A believed that Chicago Police Sergeant A entered the vestibule to secure the weapons. Officer A stated that he handled a black plastic bag that was given to Chicago Police Sergeant A to move the two handguns for officer safety reasons. Chicago Police Sergeant A covered his hand with the black plastic bag and transferred the weapons to right outside the breezeway on a concrete step leading to the door. (Att. #58-60)

In a statement to IPRA on 27 Oct 09 the Involved Member, **Officer C**, provided an account of the incident that is consistent with the Summary of Incident, related Department reports and the account he provided to the Roundtable panel. Upon conclusion of the traffic stop, he heard a loud report in the vicinity of 86th and Yates. At that time, Officer C and his partner observed Subject 1, running westbound from the mouth of an alley at 86th Street. Officer C did not observe a weapon in Subject 1's hands at that time. Officer C did not recall if his partner stated that he observed a weapon in Subject 1's hand. Officer B and Officer A exited their vehicle as Subject 1 was running. Officer C stopped his marked vehicle behind Officer B's vehicle, exited and pursued Subject 1 on foot.

Officer C did not observe a weapon while pursuing Subject 1. Officer C did not recall if any of the other officers mentioned that Subject 1 had a gun. Officer A and/or Officer B yelled direct orders for Subject 1 to stop. The pursuit lasted less than fifteen seconds and ended when Subject 1 attempted to make entry into a vestibule/breezeway area. Subject 1 entered the vestibule but was unable to gain entry through the interior door and he immediately turned towards Officer A and Officer B who were behind him. Subject 1 turned towards them with his right hand outstretched holding what resembled a handgun. Officer B and Officer A were positioned to the right of Officer C. Officer C was within fifteen to thirty feet of Subject 1, closer to the sidewalk. At that time, Officer C stated that he observed Subject 1 turn and hold one weapon. He did not see a second weapon and was not able to see Subject 1's left hand. Officer B and

Officer A were closer to Subject 1, standing just outside of the vestibule on the street side.

Once Officer C saw Subject 1 point his weapon at the other officers, he feared for his life and the other officers' and fired his weapon. Officer C stated that he never made entry into the vestibule. A male black, Witness 1, came from upstairs in the building and entered the vestibule. Witness 1 looked down in the direction of Subject 1 and the handguns. The officers on the scene asked to see his hands. Officer C believed that Officer B told Witness 1 to go back inside but the male black did not go back inside.

Officer B grabbed Witness 1 and handed him to Officer C. Officer C put Witness 1 on the ground outside of the vestibule but did not handcuff Witness 1. When other officers arrived, they immediately took Witness 1 from Officer C's viewing sight. Officer C did not see Subject 1 moving around after he fell to the floor. After the shooting, Officer C did observe the second gun, which he thought was a nickel plated revolver, when he observed Subject 1 lying on the ground. Officer C observed Chicago Police Sergeant A move the weapon with a plastic bag. The weapon that Subject 1 pointed at Officer C was a blue-steel handgun. Officer C stated he did not handle any evidence at the scene. Officer C believed that Chicago Police Sergeant A of the Targeted Response Unit (TRU) moved the guns away with a black plastic bag for officer safety. (Att. #46-48, 61-65, 69)

In a statement to IPRA on 28 Oct 09 the Involved Member, **Officer D** provided an account that is consistent with the Summary of Incident and related Department reports. Officer D stated that he and his partner Officer C, who was

driving the marked squad car, first observed Subject 1 when they made the initial turn westbound on 85th Street. Subject 1 was in the alley gangway area on the south side of the street. Subject 1 was there with at least two females and possibly a third. Officer D did not observe Subject 1 with a gun but was not initially looking at Subject 1's hands. Subject 1 then started running westbound. Officer D exited the squad car and pursued Subject 1. Officer D did not observe Subject 1 holding a gun while Subject 1 was running as he (Officer D) did not have a clear view of Subject 1's hands. Officer D believed that Subject 1 was already in the building by the time he exited the squad car. The tactical officers, Officer B and Officer A, were already out of their vehicle when Officer D exited. Officer D observed Subject 1 trying to enter the foyer area and when Officer D exited his vehicle, he did not observe Subject 1 at the front door anymore. Officer D stated that he never really reached the front door of the building. Officer B and Officer A were in front of their vehicle which was parked in front of the door to the building.

Officer D could not recall if the front door to the building was open and stated that from the angle that he was positioned he was unable to see Subject 1. Officer D heard, "Drop you weapon!" "Drop your gun!" or words to that effect. After the shots were fired, Officer D observed Subject 1 inside the vestibule area. Officer D did not observe Subject 1 prior to shots being fired and did not see him pointing a weapon at the other officers. Officer D recalled that his partner, Officer C was in front of him. Officer D was behind the other officers when they fired

their weapons. Officer D was not able to view Subject 1 point a weapon at Officer B, Officer A and Officer C because of where he was located.

Officer D stated that he did not see Subject 1's weapons because he never approached Subject 1 after shots were fired. After the shots were fired, the other officers still had their weapons pointed at the vestibule area. They were yelling commands as Officer D approached the vestibule area. Officer D observed a male in the window above the exterior door and then observed a second individual, Witness 1, who was wearing a red t-shirt, in the vestibule area. Then almost simultaneously, other assist units arrived on the scene. Officer D did not handle any of the evidence at the scene and did not observe any officers handle any evidence. Officer D did not participate in the preservation of any evidence. (Att. #49-50, 70)

In a statement to IPRA on 20 Nov 09 the Involved Member, **Chicago Police Sergeant A**, provided an account that is consistent with the Summary of Incident, related Department reports and the account he provided to the Roundtable panel. Chicago Police Sergeant A stated he responded to a call of shots fired at and by the police at an address on the 2300 block of East 85th Street and arrived within three minutes. Officers were out of their cars and in the entrance of the apartment building, in the vestibule/breezeway. There was a male/black, Witness 1, arguing with the officers as they attempted to get him out of the doorway. After the officers removed Witness 1, Chicago Police Sergeant A observed a male/black lying on the floor inside the vestibule/breezeway. Chicago Police Sergeant A observed that the individual was shot and lying next

to him were two pistols. The male, now known as Subject 1, was still alive, moving his arms, and Chicago Police Sergeant A feared for the safety of himself and other officers. Chicago Police Sergeant A requested a plastic bag from one of the officers standing by and he wrapped the bag around the two pistols and stood outside the door with the pistols. The bag was laying somewhere outside the building before one of the officers retrieved it. Chicago Police Sergeant A stated that he moved the pistols with the bag over his hand and held them.

Once the ambulance personnel came and declared Subject 1 to be deceased, Chicago Police Sergeant A placed the pistols on the ground directly outside the exterior door and waited until a crime lab technician recovered them. Chicago Police Sergeant A related that he might have touched the pistols when he picked them up. Chicago Police Sergeant A did not hold the pistols for very long because the fire department arrived very quickly and as soon as Subject 1 was pronounced he put the guns down. Chicago Police Sergeant A stated that he did not have any physical contact with any other evidence at the scene. (Att. #72, 74)

The report from **Acting Assistant Deputy Superintendent** ("ADS") included an account of the incident that is consistent with the Summary of Incident. (Att. #5)

In a formal statement with IPRA on 22 Jun 08, **Witness 1** related that Subject 1 is his cousin. The two were outside drinking and intoxicated prior to the time of the incident. During the late hours of 21 June 2008, Witness 1, Subject 1 and Witness 2 were standing in front of the garage attached to a

building on the 2300 block of East 85th Street drinking gin and talking. Witness 1 left the group and entered the building, followed by his wife Witness 3 and their two children "T" (12 years old) and "T" (2 years old).

Approximately twenty minutes later, while in his apartment, Witness 1 heard several gun shots. Witness 1 walked down to the main floor and as he approached, he observed Subject 1 lying on his stomach in a pool of blood with two revolvers lying next to his body in the corner of the hallway. Two male/white uniformed officers with their guns drawn and pointed at Witness 1 ordered him down to the ground. Witness 1 stated that he complied and the officers handcuffed him and escorted him outside and placed him in the rear of a vehicle.

Witness 1 added that Subject 1 and Witness 2 were intoxicated. Witness 1 did not observe any weapons on Subject 1 and had no knowledge that Subject 1 had weapons on his person. Witness 1 related that Witness 4 and an unknown female were with them as they drank but left the scene before the shooting. Witness 1 observed the two women drive off and out of the area. Witness 1 stated that he has never known Subject 1 to have or carry weapons. Witness 1 stated that while outside, he did not hear any gun shots. His wife did not witness the incident. Upon further inquiry, Witness 1 stated that at no time did he hear anyone yelling outside. He did not hear any voices announce "Police" or "Drop a weapon" or "Get on the ground." His apartment windows were open. (Att. #13)

Witness 4 and Witness 2 were identified in Witness 1's statement as potential witnesses. Attempts to contact both were met with negative results. (Att. #91-92)

A **Canvass** was conducted and three witnesses were identified. Witness 5, resident of the 2300 block of East 85th Street, stated that her attorney told her not to give a statement about what she saw and stated that Witness 6, her brother-in-law, was also a witness. Witness 6 resided on the 2300 block of East 85th Street but was not at home at the time of the canvass. Witness 7, a resident of the 8400 block of South Oglesby, stated that she was a witness to the incident but did not wish to speak with IPRA before speaking with an attorney. Attempts to contact all three witnesses via telephone call, letters and personal visits were met with negative results. Witness 5 and Witness 6 subsequently provided statements to IPRA after being served with subpoenas. Witness 7 and Witness 8 refused to cooperate even after being served with subpoenas. ² (Att. #19, 20, 23-25, 33-35, 75-76, 78-80, 90)

In a formal statement with IPRA on 02 Mar 10, **Witness 5** stated that Subject 1 is her nephew and she resides on the 2300 block of East 85th Street. Witness 5 stated that on 22 Jun 08, there had been an on-going family party and she had just gone into her house when she heard gunshots. Witness 5 ran to her window, facing the street, and observed police officers shooting into her building. Witness 5 told her son, Witness 1, that the police were shooting into the building. Witness 1 ran to the door before Witness 5 and by the time she reached the stairs, officers already had Witness 1 in the front yard handcuffed and kneeling. The officers told Witness 5 not to “motherfucken’ go outside” but

² Witness 8 was identified as a witness during the preliminary investigation conducted by Inv. Reynolds, who responded to the incident immediately after the police-involved shooting.

Witness 5 used the back door of the building, then went around to the front of the building. Witness 5 observed Subject 1 lying on the floor of the building's vestibule but did not observe any weapons. Witness 5 stated she had not seen Subject 1 with any guns on his person or seen him holding any guns throughout the day. (Att. #81-84)

In a formal statement with IPRA on 03 Mar 10, **Witness 6** stated he resided on the 2300 block of East 85th Street, but now resides across the street, on a temporary basis. Witness 6 stated that on 22 Jun 08 there had been a family party for him because he had recently been released from the penitentiary. Witness 6 had just returned from getting food and went upstairs to eat. Subject 1 stayed outside, near the garage area. Witness 6 heard tires screeching and he went out to the hallway and was going down the eight stairs to the vestibule door. Witness 6 stated that they [the neighborhood] had some gang problems earlier in the week and it is customary in the neighborhood that when tires are heard screeching, they are usually followed by gunshots. As Witness 6 came out his door, Subject 1 opened the interior door and yelled, "Unc!" Witness 6 then heard the gunfire. Witness 6 then saw Subject 1 start to fall to the floor. As Subject 1 fell his body shut the interior door. Witness 6 yelled to his sister, "Call the police!" "They're killing him!" Witness 6 then ran up 10-12 stairs to a window on a landing between the first and second floors. It was at that time that Witness 6 observed two police officers firing at Subject 1. Witness 6 then ran back downstairs and they were still shooting. He told his sister, "It is the police!" By the time his sister

came to the door, she heard the last pop of gunfire. Then Witness 1 ran downstairs past Witness 6 and out the door to the vestibule.

Witness 6 returned to the landing looking out the window and saw the police with Witness 1. Witness 6 continued to look out the window for the remainder of the night, watching police officers go back and forth. Witness 6 did not observe Subject 1 to have any guns on his person throughout the day and although he observed two officers firing at the building he did not observe the gunshots strike Subject 1. Witness 6 stated that the officers “shot up” a baby bottle and a can of beer when they shot at Subject 1.³ (Att. #85-88)

The **Chicago Fire Department (CFD) Ambulance Report** indicates that Ambulance #22 was dispatched at 0102 hours on 22 June 2008; it was at the location and at the patient at 0108 hours, and it departed the scene at 0137 hours. The patient was found lying on his left side. The findings indicated no spontaneous respirations and no chest wall expansion. (Att. #89)

The **Tactical Response Reports** from the involved officers indicate that Officer B fired ten (10) times, Officer A fired four (4) times, Officer C fired ten (10) times, and Officer D did not fire his weapon. (Att. #6-11)

The **Case Supplementary Reports** from Area 2 include accounts of the incident that are consistent with the Summary of Incident and the accounts provided at the Roundtable. The report further indicates that reporting Detectives noted that Chicago Police Sergeant A was present protecting the two weapons

³ There was no indication from the Crime Scene Processing Report that a baby bottle and can of beer were either inventoried or photographed by the Evidenced Technicians.

which had been removed with a black plastic bag when Subject 1 showed signs of life and was still deemed a threat. (Att. #38, 43, 44, 45)

The **Office of Emergency Management and Communications (OEMC)** Event Query and CD provide information consistent with the Summary of Incident. The OEMC Event Query further indicates that shots fired by police were radioed in, as was as a request for an ambulance. A 911 Caller, Witness 6, stated his nephew had been shot. Two 911 callers who wished to remain anonymous stated they heard 9 and 10 shots fired.⁴ Another unknown 911 caller stated police were outside on the corner and the caller heard shots fired and was afraid there was a shoot out with the police. Attempts to contact the unknown 911 caller via the phone number provided by the OEMC Event Query were met with negative results. (Att. #17, 18)

The **Evidence Technician Photographs** depict the exterior of the residential building on the 2300 block of East 85th Street; the vestibule area; Subject 1's body lying in the vestibule area; Subject 1's injuries on his back, face, legs and ankles; Two handguns with a black plastic bag wrapped around them; and various items on the lawn on the 2300 block of East 85th Street. A single photograph also depicts Subject 1 lying on the ground in the vestibule area, and on Subject 1's right hip and right thigh are stacked two AT&T, Dex telephone books. On top of the telephone books is a menu which twice states: WE DELIVER 773-374-8000 on two separate lines. To the right of Subject 1's right

⁴ Attempts were made to contact the two anonymous 911 callers. The phone number was obtained for one caller who was contacted and identified. The caller stated she had not observed anyone fire a weapon, but called 911 upon hearing shots fired. The second 911 caller's name and phone number could not be obtained and they were not contacted. (Att. #93-94)

knee, there appears to be a stack of additional phone books. One photograph in the package of eighty-three depicts a stack of Dex phone books with what appears to be a menu underneath the stack, possibly the menu noted above.⁵

(Att. #16)

A Report from the **Illinois State Police Division of Forensic Services** (ISP) dated 28 Oct 08, reflects that of the fired evidence recovered at the scene and at the autopsy, twelve (12) fired cartridge cases were matched to Officer C;⁶ eight (8) fired cartridge cases, five (5) fired bullets and one (1) fired bullet jacket fragment were matched to Officer B; and two (2) fired bullets and three (3) fired cartridge cases were matched to Officer A.⁷ Officer B, Officer C and Officer A's weapons were found to be in firing condition and test fired. One of Subject 1's weapons, the Taurus model 66, .357 Magnum revolver was found to be inoperable at the time it was received. Subject 1's other weapon, the Smith & Wesson model 28-2, .357 Magnum revolver was found to be in firing condition and test fired. Additionally, five (5) unfired cartridges and one (1) fired cartridge case were recovered from the Smith & Wesson .357 Magnum. (Att. #39)

A report from ISP dated 04 Jun 09, reflects that results of a gunshot residue collections kit administered to Subject 1 indicated that he discharged a

⁵ As a result of the photograph containing the phone books and the menu stating, "We Deliver" a Complaint Register was initiated. Reference LOG# 1033675.

⁶ Although (12) cartridges were matched to Officer C's weapon by ISP there was a discrepancy in other reports when determining how many times Officer C fired his weapon. The Roundtable Report indicated he fired three (3) times and was left with eleven (11) bullets in the magazine; the ADS report only indicated that Officer C's weapon had a thirteen (13) round capacity; Officer C's TRR indicated he fired his weapon ten (10) times.

⁷ One (1) fired bullet could not be identified or eliminated as having been fired from Officer B or Subject 1's weapons. From the information provided in the ISP report it was also determined that of the four (4) bullets retrieved from Subject 1's body during the autopsy, three (3) bullets were fired from Officer B's weapon and one (1) bullet was fired from Officer A's weapon. (Att. #71)

firearm, had contact with a Primer Gunshot Residue (PGSR) related item, or had his left hand in the environment of a discharged firearm. (Att. #41)

A report from ISP dated 07 Jul 09, reflects that DNA testing of the swabs taken from Subject 1's Smith & Wesson revolver indicated that a mixture of human DNA profiles were identified and Subject 1 could not be excluded as having contributed to the major human male DNA profile identified. Additionally, approximately 1 in 5.8 billion Black, 1 in 14 billion White, or 1 in 15 billion Hispanic unrelated individuals could not be excluded from having contributed to the same DNA profile. (Att. #42)

The report further indicates that DNA testing of the swabs taken from Subject 1's Taurus revolver identified a human male DNA profile matching the DNA profile of Subject 1's. (Att. #42)

The Medical Examiner's Report, indicates that Subject 1 had a gunshot wound enter through the right side of the face, coursing from right to left and slightly downward; a gunshot wound which entered through the right upper back, then entered the right lower back and exited from the left lower back; a gunshot wound which entered the right buttock laterally and lodged in the left buttock; a gunshot wound which entered the right buttock and then entered the abdominal cavity; a perforating wound of the right buttock that exited from the left hip; an atypical entrance wound of the right buttock which did not enter the pelvis; a perforating wound of the left lower back laterally; a gunshot wound of the left upper thigh; a perforating wound of the right knee; a perforating wound of the right ankle that entered the lateral aspect of the right ankle and exited from the

medial aspect of the same ankle; and a graze wound of the left anterior thigh. Subject 1 died as a result of multiple gunshot wounds. The manner of death is homicide. (Att. #31, 36)

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer B, Officer A and Officer C was in compliance with Department policy. According to the Chicago Police Department's General Order No. 02-08-03, III. *Department Policy:*

- 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 involved 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."

The officers' actions were in accordance with the requirements of the Department's deadly force policy. The officers heard shots fired and Officer B

and Officer A immediately observed Subject 1 standing near an alley holding a gun in his hand. Upon observing the officers' vehicles, Subject 1 immediately ran in the direction opposite of the officers. The officers announced their office and yelled for Subject 1 to stop and drop his weapon. Subject 1 ignored their commands. Upon reaching the 2300 block of East 85th Street, Subject 1 turned and pointed his weapon(s) at Officer B, Officer D, Officer A and Officer C. When Officer B, Officer A and Officer C fired, they reasonably believed that they were in danger of death or great bodily harm from Subject 1.