

INDEPENDENT POLICE REVIEW AUTHORITY

INVESTIGATION

NUMBER: LOG# 1017941 / U# 08-26

OFFICER #1

INVOLVED: "Officer A" (Chicago Police Officer); Male/White; 34 years old; On-Duty; Civilian Dress; Year of Appointment – 1997

OFFICER INJURIES: None Reported

OFFICER #2

INVOLVED: "Officer B" (Chicago Police Officer); Female/White; 39 years old; On-Duty; Civilian Dress; Year of Appointment – 1996 (DID NOT DISCHARGE)

OFFICER INJURIES; None reported

SUBJECT: "Subject 1"; Male/Hispanic; 25 years old

SUBJECT: INJURIES: Gunshot wound to the right torso (**FATAL**)

DATE/TIME 06 July 2008, 0213 hours

LOCATION: 6057 S. Kedzie, in the alley, Chicago, Illinois
Beat 823

SUMMARY OF INCIDENT:

On 06 July 2008, at approximately 0213 hours, Officer A and Officer B were driving north on Kedzie Avenue approaching 61st Street when they saw a green mini-van driving south make a u-turn northbound. An unidentified person in the mini-van fired shots at a car in the vicinity of the 7-11 store parking lot which is located on the northeast corner of 61st Street and Kedzie Avenue, at 6057 S. Kedzie Avenue. The officers parked their car near the southeast of corner of 61st Street and Kedzie Avenue, exited the vehicle, and observed a subject, now known as Subject 1, standing on the northeast corner of 61st Street and Kedzie Avenue. They saw Subject 1 fire a gun at the mini-van, which had stopped in front of the squad car. ¹

The officers, who were in Subject 1's line of fire, approached Subject 1. The officers identified themselves and ordered Subject 1 to drop his weapon. Subject 1 fired his weapon approximately two more times in the direction of the officers. The officers also heard gunshots from the direction of the 7-11 lot and noted that people scattered from the lot. The officers continued to approach Subject 1 who ran east on the north sidewalk of 61st Street and then north (left) into the alley behind the 7-11.

Officer A pursued Subject 1 who was about forty-five feet in front of him and ordered him to drop his gun. Subject 1 did not drop the gun but attempted to

¹ During the course of the investigation it was determined that an individual named Victim 1 had been shot by Subject 1 during the exchange of gunfire in the 7-11 parking lot that brought Officer A and Officer B to the scene. Victim 1 drove himself to Holy Cross Hospital where he told officers he had been "shot by an '[Gang Name]' at 61st/Kedzie." Victim 1 expired during surgery. Processed firearm evidence recovered from Victim 1's vehicle indicated that Subject 1 shot and killed Victim 1 (Att. 47-50).

open a gate to a yard on the east side of the alley. The gate and fence were about six feet high. Subject 1 pointed his gun at Officer A. Officer A fired at Subject 1 wounding him. Subject 1 was taken into custody and an ambulance was called. Subject 1's weapon was recovered on the east side of the fence, at the rear of 6048 S. Troy Street.² Subject 1 was taken to Christ Hospital where he subsequently expired during surgery. Subject 1's weapon was recovered on the east side of the fence at the rear of 6048 S. Troy Street.

² The Crime Scene Processing Report also indicated that Subject 1's weapon was located at 6048 S. Troy Street, however it indicated that the gun was just inside of the wooden fence and in the alley.

INVESTIGATION:

Detective A related to the Roundtable panel that he responded to Christ Hospital where Subject 1 was transported and learned from Dr. "D" that Subject 1 had a gunshot wound to the right flank, with the bullet lodged. Subject 1 was pronounced dead during surgery at 0451 hours. Detective A was not able to interview Subject 1.

Forensic Investigators Officer C and Officer D related to the Roundtable panel that four fired casings and one live round recovered from the 7-11 parking lot appeared to be consistent with the kind of ammunition that Subject 1's pistol would accept.

Officer B related to the Roundtable panel an account that was consistent with the Summary of Incident. Officer B stated that she and Officer A were on patrol, northbound on Kedzie Avenue from 62nd Street when they saw a green mini-van southbound on Kedzie Avenue at 61st Street turn around intending to drive north on Kedzie Avenue. Someone in the mini-van fired shots at a car in the vicinity of the 7-11 store. The officers parked their car on Kedzie south of 61st Street, exited the vehicle and then observed Subject 1, who was on the northeast corner of 61st Street and Kedzie Avenue, fire a gun at the mini-van. The mini-van was stopped in front of the officer's squad car and the officers were in the line of fire from Subject 1. The officers announced their office. The mini-van proceeded north on Kedzie Avenue and Officer B observed a black car with a temporary Indiana license plate number that began with the letter "K" exit the 7-11 lot and drive south on Kedzie. Officer B approached Subject 1 and ordered him to drop

his gun. Subject 1 ran east on the north sidewalk of 61st Street and north into the alley east of the 7-11. Officer B and Officer A ran after Subject 1 and repeatedly told Subject 1 to stop and drop the gun that he held in his right hand. Officer B heard shots fired during the foot chase but did not see Subject 1 fire his weapon during the chase.

Officer B stated that Officer A was in front of her in the alley just north of 61st Street when he yelled, "Stop, drop the gun!" Officer A raised his weapon and fired. Officer B stated that she did not see Subject 1 as Officer A fired. Officer B radioed for assistance, entered the alley and observed Officer A taking Subject 1 into custody.

Officer A related to the Roundtable an account that was consistent with the Summary of Incident. Officer A stated that he and Officer B were on patrol, driving north on Kedzie Avenue approaching 61st Street. Officer A stated that he saw a green mini-van, driving southbound on Kedzie Avenue, make a u-turn south of 61st Street and then start driving north. Officer A heard gunfire coming from the mini-van which was now stopped in the intersection of 61st Street and Kedzie Avenue in front of the officer's vehicle. Officer A and Officer B exited their vehicle.

Officer A saw numerous subjects in the 7-11 parking lot, and further noted a male, now known as Subject 1, standing on the northeast corner of 61st Street and Kedzie Avenue. Officer A saw Subject 1 fire a gun in a southwest direction and noted that he and Officer B were in the line of Subject 1's gunfire. Officer A and Officer B announced their office and ordered Subject 1 to drop the gun.

Subject 1 responded by firing his weapon approximately two more times and then running east on the north sidewalk of 61st Street holding a gun in his right hand. Officer A chased Subject 1 on foot and during the chase he stated that he heard two more shots fired but could not tell if the shots were fired from in front of or behind him. However, Officer A could still see Subject 1 when the shots were fired and stated that Subject 1 might have fired the two shots. During the foot chase, Officer A screamed, "Stop, police, drop the weapon!"

Subject 1 ran north in the alley and was about forty to forty-five feet in front of Officer A. Officer A made a wide turn into the alley because he was not sure where Subject 1 was located. When Officer A made the turn into the alley, Subject 1 was now facing a tall wooden fence on the east side of the alley. Officer A ordered Subject 1 to drop the gun but Subject 1 turned and raised his gun in Officer A's direction. Officer A believed his life was in jeopardy and fired three rounds at Subject 1. Subject 1 fell to the pavement and landed near the fence. Officer A then handcuffed Subject 1 and requested an ambulance. Officer A stated that while he was in the alley, he did not see Subject 1 move his gun and did not know if any officer moved Subject 1's gun. The gate connected to the fence where Subject 1 fell was locked. Officer A stated that he heard a total of about ten to fifteen shots, fired by different weapons, during the entire incident. (Att. #3)

In a statement to the IPRA on 19 May 09 the Involved Member, **Officer A**, provided an account that was consistent with the Summary of Incident, related Department reports and the account he provided to the Roundtable panel.

Officer A stated he and Officer B observed a green minivan turn out of the 7-11 parking lot and travel south on Kedzie Avenue at which time the van completed a three-point turn in the middle of Kedzie Avenue directly in front of the squad car then continued north on Kedzie Avenue. Officer A continued behind the vehicle for approximately fifty feet when he and Officer B heard numerous gunshots coming from the northeast corner of 61st Street and Kedzie Avenue as well as gunshots from several other unknown locations. Officer A was driving and stopped their vehicle and he and Officer B exited. Both officers announced their office to Subject 1. Subject 1 responded by pointing a gun at Officer A and Officer B and firing several times. Officer A could not recall if he had his weapon drawn.³

Subject 1 ran east on 61st Street then north into an alley with Officer A in pursuit. Officer A heard two to three more gunshots as he was running behind Subject 1 but could not be certain if Subject 1 was firing his gun. Upon reaching the alley Subject 1 tried to jump over a 6 foot high wooden fence, but was unable to complete the jump. Officer A reached Subject 1 and yelled to Subject 1, "Stop! Police! Drop the gun!" Subject 1 turned towards Officer A, and raised his right hand which was holding the handgun, and pointed it in the direction of Officer A. Officer A, in fear for his life, fired three rounds at Subject 1, striking Subject 1 in the chest. Officer A estimated he was standing fifty to seventy-five feet away from Subject 1 when he fired at him. Subject 1 fell to the ground and yelled out, "You got me, you got me, you shot me!" Officer A stated that from the time he

³ In his account to the Roundtable panel Officer A stated that he did not have his weapon drawn at the time that Subject 1 fired his weapon in the officers' direction.

began pursuing Subject 1, he was unsure of Officer B's actions or location. (Att. #52-54)

In a statement to the IPRA on 22 May 09 the Involved Member, **Officer B**, provided an account that was consistent with the Summary of Incident, related Department reports and the account she provided to the Roundtable panel. Officer B stated that after the minivan made a u-turn and was driving toward the intersection of 61st Street and Kedzie Avenue, she and Officer A were behind the minivan. Officer A and Officer B heard gunshots then observed a male subject, Subject 1, on the northeast corner of 61st Street and Kedzie Avenue firing towards the minivan. Officer B was uncertain if gunshots were also fired from the minivan. The officers exited their vehicle and immediately announced their office. Subject 1 continued firing in the direction of Officer A and Officer B and then ran eastbound on 61st Street with a gun in his hand.

Officers Officer B and Officer A pursued Subject 1. However, while still on 61st Street, Officer B heard the squeal of vehicle tires in the 7-11 parking lot. Officer B stopped and turned in the direction of the squealing tires. Officer B observed a dark vehicle with an Indiana State temporary license plate exit the 7-11 parking lot and head south on Kedzie Avenue. Officer B heard shots still being fired from the direction of the 7-11 parking lot but was unable to see who was firing. Officer A continued pursuing Subject 1 and did not stop.

When Officer B reached the alley between Kedzie Avenue and Troy Street she observed Officer A yelling at Subject 1 to drop the gun and repeatedly announcing his office, then firing his weapon three times at Subject 1. Officer B

could see Officer A in the alley but could not see where Subject 1 was located in the alley due to the fact that she had not fully entered the alley and the 7-11 building was blocking her view from where she was standing. After firing at Subject 1, Officer A approached Subject 1 and Officer B entered the alley and observed Subject 1 lying on the ground. Officer B did not fire her weapon. (Att. #55-58)

The report from Acting Assistant Deputy Superintendent (ADS) included an account of the incident that is consistent with the Summary of Incident. (Att. #4)

A neighborhood canvass was conducted; however, no witnesses were located. (Att. #18)

In an interview with the IPRA on 06 Jul 08 **Witness 1** stated that he was standing in the doorway of an apartment building on 61st Street just east of Kedzie Avenue when he saw people in the 7-11 parking lot throwing rocks and bottles at each other.⁴ One Hispanic male fired a gun at another Hispanic male while in the parking lot. Witness 1 stated that he saw two plainclothes officers run northbound on Kedzie Avenue.

One of the officers ran after one of the male Hispanics, now identified as Subject 1, into the alley east of the 7-11. Witness 1 stated that he heard and observed three or four shots fired in the alley area. Witness 1 observed a male officer fire three or four shots. Witness 1 did not see who the officer fired at. Witness 1 went back into the apartment building, moved to the third floor, and

⁴ In his statement to the IPRA Witness 1 stated he was with his son-in-law "[Unnamed]" (no last name provided) but did not state that "[Unnamed]" was a witness. In his statement to detectives, Witness 1 did not indicate that he was with anyone else at the time of the incident.

looked out a window. Witness 1 observed a male lying on the ground in the alley next to a garage north of 61st Street. Witness 1 stated that the male lying on the ground in the alley looked like he was wearing the same clothes, a white t-shirt and jeans, as the gunman he saw in the 7-11 parking lot. Witness 1 stated that the gunman in the 7-11 parking lot fired two or three shots. Witness 1 stated that he could not tell if the gunman still had his gun with him when he ran because his view was blocked. Witness 1 did not hear "Police!" Or "Drop the gun!" before the male officer fired his gun. The male officer was wearing a vest and badge. (Att. #13)

In an interview with the IPRA on 06 Jul 08 **Witness 2** stated that she was in the 7-11 bathroom when she heard several gunshots. Witness 2 stated that she went outside onto Kedzie Avenue because her friends were outside. Witness 2 saw a male Hispanic, wearing a white checked shirt and blue jeans, run west and then north on Kedzie Avenue holding a chrome object in his right hand. Witness 2 stated that she flagged down the police and they arrested the male Hispanic on the west side of Kedzie Avenue north of a pet shop.⁵ Witness 2 stated that she did not hear any other shots and did not see anyone fire a weapon. (Att. #14)

In an interview with IPRA on 08 Jul 08 **Witness 3** stated that he was sitting on the steps of the apartment building on 61st Street just east of the alley east of Kedzie Avenue when he saw a maroon car drive into the 7-11 parking lot, screech to a stop, all four doors open, and one male exit and yell, "There goes

⁵ The IPRA was unable to determine the identity of the male Hispanic that police arrested.

[Gang Name]!” Witness 3 heard five shots fired and what sounded like two vehicles colliding on Kedzie Avenue.

Witness 3 then heard five more shots and saw the male who had exited the maroon car, run from the 7-11 parking lot eastbound on 61st Street to the alley behind the 7-11. The male was wearing a white t-shirt and dark pants. Witness 3 did not see anything in the hands of the male who ran into the alley. Witness 3 then heard approximately five more shots, possibly coming from the alley. Witness 3 did not see anyone, including the police chase the male into the alley. Witness 3 did not see anyone fire a weapon. (Att. #15)

In an interview with the IPRA on 06 Jul 08 **Witness 4** stated that he was in his apartment, located at 3142 W. 61st Street, in bed with the window open. The window has a view of the alley behind the 7-11 at 61st Street and Kedzie Avenue. Witness 4 heard what sounded like three shots outside, some glass breaking, tires skidding, then more shots. Witness 4 then heard some footsteps in the alley behind the 7-11 and heard a male voice ask, “Where’s the gun?”

Witness 4 went to his window, looked in a northwesterly direction and saw a white male that appeared to be a uniformed police officer wearing a black vest and a blue shirt. The police officer was pointing what looked like a black gun at something or someone on the ground although Witness 4 could not see anyone or anything on the ground in the alley. Witness 4 did not recall hearing anyone say anything before he heard the shots. Witness 4 estimated that he heard a total of nine or ten shots during the incident. After the shots were fired and after he heard “Where’s the gun?” Witness 4 heard someone else say, “No, you stay

over there.” That voice, which was male, seemed to come from the direction of the 7-11. Witness 4 did not hear a voice from where the officer was standing and pointing his gun toward the ground. Witness 4 did not see anyone else in the alley other than the officer. Witness 4 stated that he did not witness any foot chase in the alley and did not witness anyone fire a weapon. (Att. #16)

In an interview with IPRA on 04 Mar 10, **Witness 5** stated he was with Subject 1 at the 7-11 when they, along with several other individuals, began fighting with a rival gang. The fight started in the 7-11 parking lot and spilled out into Kedzie Avenue. Witness 5 saw Subject 1 fire a weapon towards the rival gang members. Subject 1 then ran into the alley behind the 7-11 store. Witness 5 turned around and saw two uniformed police officers running after Subject 1. Because his back was turned, Witness 5 had not seen the officers arrive; however, he assumed Subject 1 had and that was the reason Subject 1 ran. Seconds after Subject 1 and the officers went into the alley, Witness 5 heard gunshots and assumed that Subject 1 had been shot by the officers. (Att. #74)

Attempts to interview witnesses Witness 6, Witness 7, Witness 8, Witness 9, Witness 10 and Witness 11 via letters, telephone calls and personal visits were met with negative results.⁶ (Att. #26-28, 36, 37, 61-71)

The Case Supplementary Report from Area 1 includes accounts of the incident that are consistent with the Summary of Incident and the accounts provided at the Roundtable. (Att. #47-49)

⁶ An attempt to interview Witness 12, who was listed as a witness in the Detective's Supplementary Report, could not be made due to the fact that there is no known address for Witness 12. In his statement to detectives, Witness 12 stated he lived in Summit, IL but did not recall his address. Witness 12 also related to detectives that he did not observe the incident; he heard gunshots then ran in the opposite direction, away from the gunshots. (Att. #47)

Witness 9 related to detectives that he was working at the 7-11 at the time of the shooting. Some time before the shooting occurred, a male Hispanic entered the store and walked over to the ATM. Two other males were already in the store talking. They were not loud so Witness 9 did not pay them much attention. A male in a new, white, 2008 Mercury Montego drove into the parking lot of the 7-11. The male parked the vehicle and entered the store. He asked the two males talking who they were. The male in the Mercury said something about being an “[Gang Name] from 87th Street.” The male then left the store after he and the males said something else to each other that Witness 9 could not make out. Two female Hispanics entered the store and bought beer. Witness 9 thought they also got out of the white Mercury but was not certain. A short time later Witness 9 heard gunshots, but did not see who was doing the shooting. (Att. #47)

Witness 11 initially related to the detectives that she was Subject 1’s friend but later stated she was Subject 1’s fiancée and went with him to the 7-11 store. Witness 11 was seated in the front passenger seat of Subject 1’s vehicle. Witness 11 observed a male black and a male Hispanic and the two girls exchange glances with Subject 1 inside the store. The two males and two females exited the store and got into their car. Subject 1 got back into his car. Witness 11 heard bottles breaking in the parking lot when Subject 1 got back into the car but Witness 11 got scared and ran into the 7-11 store and lay on the floor. Witness 11 heard a female voice scream that Subject 1 had been shot but she did not see or hear anyone shooting a gun. (Att. #47, 49)

Witness 6 related to the detectives that she was with Witness 7 when they met two males she only knows as “[Unnamed]” and “[Unnamed]” on the 5900 block of South Sawyer Avenue. They all went to the 7-11 store to buy beer. When they entered they saw a male, Subject 1, get out of a white car and go into the store by the ATM. Subject 1 said he was an [Gang Name] from 87th Street. After buying the beer they all got back into their car and as they were driving out of the parking lot, “Scummy” was throwing firecrackers out of the window. Witness 6 had already dropped off “[Unnamed]” and “[Unnamed]” on Sawyer Avenue when they heard gunshots. Witness 6 and Witness 7 drove back to the 7-11 store and saw the white car and a black van driving northbound. (Att. #47)

Witness 7 related to detectives essentially the same as Witness 6. Witness 7 however, stated that as they were leaving the parking lot of the 7-11 store a blue van arrived and Subject 1 went over to the van. Witness 7 stated that as she was driving south on Kedzie Avenue she observed the white car and blue van going northbound. (Att. #47)

Witness 10 related to detectives that he was at a block party on 59th Street and Sawyer Avenue and was with “[Unnamed]” and “[Unnamed].” Witness 10 heard gunshots and received a phone call from his girlfriend, “[Unnamed]”, who said that someone had been shot on Kedzie Avenue or Troy Street. Witness 10 and his friends then went into his yard and drank more beers. (Att. #49)

Witness 8 related to detectives that he was drinking beer in the yard with Federico Garcia and Witness 10. They heard gunshots and started to go into the

house when police arrived. They all went with the police. Witness 8 denied knowledge or participation in the incident. (Att. #49)

The **Chicago Fire Department (CFD) Ambulance Record** indicates that paramedics found Subject 1 at 3200 W. 62nd Street, suffering from a single gunshot wound to his right upper quadrant (torso).⁷ Subject 1 was transported to Christ Hospital. (Att. #21, 35)

The Tactical Response Reports from the involved officers indicate that Officer A fired three (3) times and Officer B did not fire her weapon. (Att. #7, 9)

Medical records dated 06 Jul 08 from **Christ Hospital** indicate that Subject 1 was admitted for a gunshot wound to the right chest and expired during surgery. (Att. #22, 42)

The **Office of Emergency Management and Communications (OEMC)** Event Query indicates that multiple 911 calls were received, the callers indicating they heard several shots fired; officers requested assistance for shots fired at and by the police; and several calls were placed from Holy Cross Hospital personnel indicating they had a person (Victim 1) in the parking lot that had been shot.⁸ (Att. #19, 34)

The **Evidence Technician Photographs** depict the scene of the incident; the 7-11 store parking lot; Subject 1's weapon; Subject 1's deceased body at the

⁷ Although the Ambulance Report stated Subject 1 was located on 62nd Street this appears to be an error as there is no dispute that Subject 1 was in the alley behind 61st Street and Kedzie Avenue.

⁸ During the course of contacting the 911 callers it was learned that several callers had called 911 because of an unrelated shooting that occurred in the area of 59th Street and Troy Avenue. The shooting occurred at approximately the same time as the shooting involving Officer A and Officer B.

hospital; Victim 1's vehicle at Holy Cross Hospital; and Victim 1's deceased body at the hospital. (Att. #25)

Video footage obtained from the 7-11 store surveillance cameras depicts parts of the interior and exterior of the store, including the alley adjacent to the store and the parking lot. The video depicts Subject 1 entering the store and walking towards an ATM located to the left of the entrance; Subject 1 exits the store and stands in front of the entrance of the store; Subject 1 re-enters the store and walks back to the ATM area; a male black exits the store then re-enters and goes towards the cash register; Subject 1 exits the store again and walks towards the parking lot and to a minivan that enters the parking lot. An unknown male Hispanic exits the minivan and hands Subject 1 an unidentified object. Subject 1, the minivan and the male Hispanic walk out of the view of the camera; multiple individuals in the parking lot begin running out of the view of the camera or into the store and appear to be ducking; Subject 1 re-enters the view of the camera in the parking lot and enters a white vehicle which is parked in the parking lot, then immediately exits the vehicle again. Simultaneously, multiple cars are coming in and out of the parking lot. The white vehicle drives out of the parking lot, without Subject 1, and leaves the view of the camera. An individual wearing the same clothing that Subject 1 was previously seen wearing runs through the alley and Officer A runs behind the male approximately six seconds later.⁹ Officer B runs through the alley approximately sixteen seconds after Officer A. Approximately eight minutes later paramedics run through the alley

⁹ Although the Detective supplementary states that the individual running through the alley is Subject 1, it cannot be determined that the male is Subject 1 because his back is to the camera as he runs, not his face.

with an empty stretcher and two minutes later the paramedics return with an individual on the stretcher. (Att. #78)

A report from the **Illinois State Police, Division of Forensic Services** (ISP) dated 28 August 2008, indicates that of the fired evidence recovered at the scene and at the autopsy, two (2) fired bullets (located at 6046 S. Troy Street and received from the morgue) and three (3) fired cartridge cases (all located at 6058 S. Troy Street) were matched to Officer A's weapon; three (3) fired cartridge cases and one (1) unfired cartridge case (all located at 3158 W. 61st Street) were matched to Subject 1's weapon.^{10 11} Subject 1's weapon was examined and found to be in firing condition and test fired. Officer A's weapon was examined and found to be in firing condition and test fired. (Att. #43)

A report from the ISP dated 9 September 2008, reflects that results of a gunshot residue (SEM/GSR) collection kit administered to Subject 1 indicated that Subject 1 may have not discharged a firearm with either hand. If Subject 1 did discharge a firearm, then the particles were removed by activity, were not deposited, or were not detected by the procedure.¹² (Att. #44)

¹⁰ The ISP report dated 28 Aug 08 also indicates that of the recovered evidence at the scene one (1) metal fragment (received from the morgue) was unsuitable for microscopic comparison; one (1) fired bullet and one (1) fired bullet jacket fragment (both were located inside of Victim 1's vehicle at 2732 W. Lithuanian Plaza, Holy Cross Hospital) could not be eliminated as having been fired from Subject 1's weapon but were not fired from Officer A's weapon. (Att. #43)

¹¹ Fired/unfired evidence locations were determined by cross referencing the Crime Scene Processing Report's photographs, markers and inventory numbers with the ISP report dated 28 Aug 08. (Att. #11, 43)

¹² Subject 1's GSR test was administered at the Cook County Medical Examiner's Office after Subject 1 had been treated at Christ Hospital. (Att. #11)

A report from the ISP dated 07 Apr 09, reflects that DNA testing of the swabs taken from Subject 1's weapon yielded no human DNA profile identified.

(Att. #51)

The Medical Examiner's **Report of Postmortem Examination**, dated 07 July 2008, indicated that Subject 1 had a gunshot wound on the lateral right upper abdomen. A deformed large caliber bullet was recovered from the lateral left abdomen. The skin about the wound revealed no evidence of close-range firing. (Att. #40, 41)

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A was in compliance with Chicago Police Department Policy. According to the Chicago Police Department's General Order 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 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 with delay.

Officer A's actions were in accordance with both conditions of the Chicago Police Department's Deadly Force Policy and were precipitated based upon the actions of Subject 1. Officer A and his partner witnessed an individual in a minivan fire at a group of individuals located in the parking lot of a 7-11 Store located at 61st Street and Kedzie Avenue. Not only did Subject 1 discharge a weapon at the occupants of the minivan, but also at Officer A and Officer B as they were in the same line of fire as the minivan. Subject 1's actions involved the infliction of physical force likely to cause death or great bodily harm.

Officer A, in order to prevent death or great bodily injury to himself, his partner, and others, fired his weapon when Subject 1 pointed a weapon in his direction. Subject 1, by his actions, demonstrated that he would inflict great bodily harm unless he was stopped immediately. This use of deadly force complied with CPD policy.