

INDEPENDENT POLICE REVIEW AUTHORITY
LOG#1018328/U#08-27

INVESTIGATION

NUMBER: U#08-27, Log #1018328

OFFICER

INVOLVED #1: "Officer A" (Chicago Police Officer); Male/White; 34 years old;
On Duty; In Uniform; Year of Appointment – 2005

OFFICER

INJURIES: None Reported

SUBJECT 1: "Subject 1"; Male/White; 53 years old

SUBJECT 1's

INJURIES: Gun shot wound to the right shoulder, a fracture of the right
scapula/clavicle and multiple rib fractures
Treated at Stroger Hospital.

SUBJECT 2: "Subject 2"; Male/White; 31 years old

SUBJECT 2's

INJURIES: Diagnosed with a head injury.
Treated at Loretto hospital.

INITIAL

INCIDENT: Traffic stop at 5001 W. Polk Street.

DATE/TIME: 18 July 2008 at approximately 1416 hours

LOCATION: 5438 W. (Eisenhower Expressway)
Beat 1522

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INVESTIGATION:

This investigation concerns allegations of on-duty officers failing to follow Department guidelines during a vehicle pursuit and violation of Department policy regarding the use of deadly force.

The investigation was conducted in the following manner:

In a **Weapon Discharge Incident Report, Assistant Deputy Superintendent A, of the Office of the First Deputy Superintendent**, reported that on 18 JUL 08, at 1416 hours, he proceeded to 4700 West on the I-290 Expressway, at approximately Cicero, regarding a police involved shooting. He learned that while conducting a traffic stop of a 1990 Toyota Corolla, at 5001 W. Polk Street, officers assigned to Beat 1594, namely Officer B, Officer C, and Officer D, observed a plastic bag, containing suspect narcotics, on the seat, between the legs of the driver, Subject 2. Officer D removed the bag, placed it on the roof of the Toyota and ordered Subject 2 and the lone passenger, Subject 1, to exit. The driver and passenger doors opened. Instead of exiting, Subject 2 abruptly placed the vehicle in gear and accelerated from the stop. Officer C reached inside the vehicle to turn it off and was dragged approximately 20 yards before he freed himself. Officer D initiated a traffic pursuit of the vehicle as Subject 2 drove to northbound Cicero (4800 west), then to Flourney (700 south) and west onto the Eisenhower Expressway. Subject 2 made a u-turn, just past Austin (6000 west), and drove the wrong way, eastbound in the westbound lanes of traffic.

Officer E, assigned to Beat 1522, entered the westbound expressway at Central (5600 west). Officer A, and Officer F, assigned to Beat 1543, entered the westbound expressway at Cicero. They were simultaneously driving in the inside lane. Officer E initially observed Subject 2. She made a u-turn and attempted to curb the vehicle. While fleeing from Officer E, Subject 2 struck the front end of the squadrol that Officer A and Officer F were riding in. The impact of the crash caused the squadrol to turn nearly perpendicular to the traffic lanes and become disabled. The vehicle driven by Subject 2 was also turned and came to a stop. Believing that the Toyota was also disabled, Officer A and Officer F exited their squadrol to take Subject 2 and Subject 1 into custody. Subject 2 accelerated and drove toward Officer F. Fearing for Officer F's life, Officer A discharged his weapon four times at the Toyota.

Subject 2 turned the vehicle away from Officer F and continued eastbound on the shoulder. Officer A and Officer F left their disabled squadrol and entered Officer E's vehicle to continue the pursuit. Subject 2 made a second u-turn on the expressway, at 4658 west, and as he began to drive westbound, with the flow of traffic, the wheel of the Toyota fell off and struck the front end of Officer E's vehicle, becoming disabled. Subject 2 and Subject 1 were taken into custody. Subject 1 sustained a gunshot wound to his right shoulder and was transported by Chicago Fire Department Paramedics to Stroger Hospital. Three plastic bags, containing suspect heroin, were recovered from Subject 1's underwear and he was charged with Possession of a Controlled Substance. Subject 2 sustained soreness to his face and was transported to Loretto Hospital by Officer G.

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Subject 2 struck three civilian vehicles while driving on the expressway. The victims of those crashes were Witness 1, Witness 4 and Witness 2. Recorded voice transmissions disclosed that nearly simultaneously to the pursuit being called off by CPD Lieutenant 1, a transmission was made that the subjects were in custody. Assistant Deputy Superintendent A ruled that the firearm discharge by Officer A was in compliance with Department policy regarding the use of deadly force.

Testimony provided during a **Roundtable Panel Discussion** was consistent with the description of events that was documented in the report of Assistant Deputy Superintendent A.

During an **in-person interview, the subject, Subject 2**, identified Subject 1 as his roommate and the Toyota as Subject 1's property. Subject 2 and Subject 1 were illegally parked in the area of 5001 W. Polk, to use heroin, when they were confronted by Police Officers B, C and D. The heroin was not visible but was in Subject 1's possession. Subject 2 panicked and drove off while the officers were standing at the Toyota. Officer D pursued him as he drove onto the westbound lanes of the I-290 Expressway, at Cicero. Subject 2 exited at Austin and drove down the ramp at Austin, eastbound in the westbound lanes of traffic, as Subject 1 simultaneously threw drug paraphernalia from the vehicle. Subject 2 momentarily stopped in the inside at the bottom of the ramp and observed an unknown male white uniformed officer, who was approximately six car lengths away, point a gun at the rear of the Toyota and shoot out the rear window. Subject 2 put his head down and sped away, eastbound in the westbound lanes of traffic, using his side mirrors to see. Subject 2 struck his head while driving and heard Subject 1 state that he had been shot. Subject 2 stopped in the middle of the expressway, placed his hands outside the window and was taken into custody. Subject 2 struck one civilian vehicle but never dragged or intentionally attempted to strike any officer with the Toyota.

During an **in-person interview, the subject, Subject 1**, stated that he and Subject 2 had just purchased some heroin in the area of 5001 W. Polk and were about to inject it when they were confronted by the police. Officer D grabbed the heroin from Subject 2's lap. Subject 2 immediately sped away, dragging officers with the Toyota in the process. Subject 1 unsuccessfully yelled for him to stop, however, Subject 2 entered and exited the I-290 Expressway, with the flow of traffic, and re-entered the expressway, against the flow of traffic, striking several cars. Subject 1 repeatedly closed his eyes and was unaware of how the Toyota came to a stop. Subject 1 did not realize that he had been shot until he was in an ambulance.

The **Chicago Fire Department Ambulance Report** documents that Subject 1 was the front passenger of a vehicle during a police chase and was shot by the police.

The **medical records from Stroger Hospital** document that on 18 JUL 08, at approximately 1430 hours, Subject 1 entered the triage with a complaint of a gunshot wound to the right shoulder from being shot by the police while a passenger in a vehicle during a police chase. Subject 1 was diagnosed with a gun shot wound to the right shoulder, a fracture of the right scapula/clavicle and multiple rib fractures.

The **medical records from Loretto Hospital** document that on 18 JUL 08, at approximately 1450 hours, Subject 2 entered the triage with complaints of jaw and head pain sustained during a motor vehicle accident in which he struck three cars and injured a police officer while driving the wrong way down the Eisenhower Expressway. Subject 2's blood was drawn and he tested positive for opiates and cocaine. Subject 2 was diagnosed with a head injury.

During an **in-person interview, the witness, Witness 6**, stated that he did not witness the police involved shooting. Witness 6 provided an account that was consistent with the report of Assistant Deputy Superintendent A regarding the initial contact that Police Officers B, C and D had with Subject 2 and Subject 1 on the 5000 block of west Polk.

During an **in-person interview, the witness, Witness 7**, stated that he did not witness the police involved shooting. Witness 7 was driving southbound on Cicero when he observed the vehicle driven by Subject 2 being chased on the street by Officer D. As he continued driving, Witness 7 observed a squadrol enter the I-290 Expressway. A short time later, Witness 7 stopped at a gas station and was informed that there had been a major accident on the expressway.

During an **in-person interview, the witness, Witness 1**, stated that she heard two shots fired, but did not witness the police involved shooting. She was driving alone in her 2000 Mercury Grand Prix, westbound on the I-290 Expressway, when her vehicle was struck by the vehicle driven by Subject 2 after he entered the westbound lanes of the I-290 Expressway while driving eastbound.

During an **in-person interview, the witness, Witness 2**, stated that she did not witness the police involved shooting. Witness 2 was driving with a mentally challenged elderly woman, westbound on the I-290 Expressway, when she observed the vehicle driven by Subject 2 driving eastbound in the westbound lanes of the I-290 Expressway. A marked squad car was pursuing the vehicle driven by Subject 2. Subject 2 crashed into the driver's side of her vehicle and kept going. Witness 2 observed a marked squadrol, stationary in the westbound lanes, facing northbound and perpendicular to oncoming traffic. She did not witness Subject 2 strike any other vehicles.

During an **in-person interview, the witness, Witness 3**, stated that he witnessed the incident while outside working on the tracks at "Mead Electric Materials Yard," located at 5401 W. Harrison. He observed the vehicle driven by Subject 2 momentarily stationary in the center lane of the westbound traffic on the I-290 Expressway. All other traffic was stationary. He then observed Subject 2 speed eastbound on the expressway as an unknown white male uniformed officer, who was standing on the expressway, discharged a firearm in the direction of where he fled.

During an **in-person interview, the witness, Witness 4**, stated that he did not witness the police involved shooting. Witness 4's vehicle was struck by the vehicle

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driven by Subject 2 as Subject 2 sped eastbound in the westbound lanes on the I-290 Expressway.

During an **in-person interview, the witness, Witness 5**, stated that he was inside his residence, located at XXXX W. Flournoy, when he looked out the window and observed that traffic on the I-290 Expressway was stopped. Two unknown officers, a white male and a Hispanic female, exit a marked squad car that was stopped and facing westbound on the expressway and ran eastbound. Witness 5 observed the white male officer draw his weapon and fire approximately three or four shots in rapid succession.

The **related Department reports** contained information that was consistent with the description of events that were documented in the report of Assistant Deputy Superintendent A. Officer C sustained abrasions to his elbows and shins from being dragged by the vehicle driven by Subject 2. Additional information was that Officer F sustained lower back pain and soreness throughout her body from the traffic accident; that Officer A sustained pain to the right calf, quadriceps and chest from the traffic accident; that Subject 2 was charged with Aggravated Battery to Police/Sheriff Employee, Aggravated Battery to an Officer/Employee/Govt, Possession of a Controlled Substance/Heroin and several driving infractions and that Subject 1 was charged with Possession of a Controlled of a Controlled Substance/Heroin.

Court Records document that Subject 2 Pled and was found “Guilty” of Aggravated Battery to Police/Sheriff Employee, Aggravated Battery to an Officer/Employee/Govt, Possession of a Controlled Substance/Heroin and was sentenced to 20 years of incarceration.

The **Traffic Pursuit Report** documents that the “Balance Test” was used and justified the continuation of the pursuit.

The **Traffic Review Board Summary of Findings** documents that the officers’ involvement in the vehicle pursuit were “in Compliance” with Department General Order 03-02, entitled “Emergency Use of Department Vehicles and Traffic Review Board,” and that under the same order, the traffic accidents were “Non Preventable.”

The **Department Event Query, Office of Emergency Management and Communications Center transmissions and printouts** provided information that was consistent with the description of events that were documented in the report of Assistant Deputy Superintendent A. Additionally, they contained transmission of the pursuit being terminated.

Evidence Technician photographs and the video of the scene, taken on 18 JUL 08, depict photos of the scene, Officer C, Subject 2, Subject 1, the Toyota Corolla, the damaged squadrol and the damaged Marquis.

Illinois Crime Lab Reports document that the substance found in the vehicle Subject 2 was driving was heroin. Tests were conducted on Officer A's weapon and no malfunctions were noted.

During an **in-person statement, the witness, Officer C**, provided an account that was consistent with the description of events that were documented in the report of Assistant Deputy Superintendent A. He described the traffic stop as one in which Subject 2 went from parking near a fire hydrant to parking in a tow zone. After Officer C observed Subject 2 illegally parked in a tow zone, he placed his hand inside the vehicle Subject 2 was driving to remove the key from the ignition. Subject 2 drove away before Officer C had a chance to remove himself from the vehicle. Once Officer C dislodged himself from the vehicle, he fell to the ground. Officer C did not see Subject 2 again until he was in police custody at Area 5. Officer C did not witness the vehicle pursuit or the police involved shooting.

During an **in-person statement, the witness, Officer B**, provided an account that was consistent with the description of events that were documented in the report of Assistant Deputy Superintendent A. Officer B did not witness the vehicle pursuit or the police involved shooting.

During an **in-person statement, the accused, Officer D**, provided an account that was consistent with the description of events that were documented in the report of Assistant Deputy Superintendent A. Officer D denied the allegations, stating that she pursued Subject 2 because he nearly killed Officer C with the vehicle he was driving and stated that the necessity to immediately apprehend Subject 2 outweighed the level of inherent danger created by the motor vehicle pursuit. Officer D did not witness the police involved shooting.

During an **in-person interview, the accused, Officer E**, stated that she was working alone and provided an account that was consistent with the description of events that were documented in the report of Assistant Deputy Superintendent A. Officer E denied the allegations, stating that the necessity to immediately apprehend Subject 2 outweighed the level of inherent danger created by the motor vehicle pursuit. Officer E observed Officer A discharge his weapon in the direction of the vehicle driven by Subject 2 to prevent serious injury or death to Officer F, due to Subject 2's erratic driving.

During an **in-person interview, the accused, Officer A**, denied the allegations. Officer A and Officer F were working together when they monitored radio transmissions regarding an officer needing assistance on the I-290 Expressway. Officer A activated his lights and siren and entered the expressway traveling eastbound on the I-290 from Austin. When Officer D radioed that Subject 2 was traveling eastbound in the westbound lanes of the I-290, Officer A exited at Cicero and entered the westbound lanes. Officer A was driving in the inside lane when he observed Subject 2 driving straight toward him, down the ramp at Central. Officer A came to a complete stop and Subject 2 struck his vehicle, head on, causing the squadrol to be jarred slightly to the right and disabled. Believing the vehicle driven by Subject 2 was disabled, Officer A exited his squadrol to take Subject 2

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into custody. As he exited, the vehicle driven by Subject 2 began to reverse. Officer A ran toward the vehicle and was near the rear of the vehicle when the vehicle began to accelerate forward, in the direction of Officer F, who was exiting the squadrol. Fearing that Subject 2 was going to strike Officer F, Officer A drew his weapon and fired, approximately four times in succession, in the direction of the driver's side of the vehicle. The rear window shattered and the vehicle swerved, just missing Officer F. Officer A and Officer F observed Officer E on the scene and entered her vehicle to pursue Subject 2. After traveling about two or three blocks, heavy traffic caused the vehicle driven by Subject 2 to come to a complete stop. Subject 2 and Subject 1 were taken into custody. An unknown officer informed Officer A that Subject 1 had been shot. Officer A did not actually observe the injury to Subject 1.

During an **in-person interview, the witness, Officer F**, corroborated the account of Officer A. Officer F exited the squadrol following the crash, observed the vehicle driven by Subject 2 driving straight toward her, heard approximately four shots, and then felt the vehicle driven by Subject 2 swerve and miss striking her by inches. Officer F did not witness the police involved shooting.

During an **in-person in interview, the accused, Officer G**, provided an account that was consistent with the description of events that were documented in the report of Assistant Deputy Superintendent A. Officer G denied the allegations, stating that the necessity to immediately apprehend Subject 2 outweighed the level of inherent danger created by the motor vehicle pursuit. Officer G entered the I-290 Expressway, westbound, at Central, with her lights and siren activated, and observed Subject 2 driving in the same direction. She drove with due caution and attempted to parallel traffic and observed Subject 2 make a u-turn and drive eastbound in the westbound lanes of traffic. Officer G followed suit and attempted to stop Subject 2 because he had already struck and dragged an officer, fled the scene, drove onto the expressway in effort to get away and placed the lives of other citizens in danger. By the time Officer G made her way eastbound in the westbound lanes of traffic, Subject 2 had struck several vehicles and was driving away from the squadrol driven by Officer A. The left rear tire of the vehicle Subject 2 was driving fell off and Officer G observed sparks coming from the vehicle's rotors. Officer G observed Subject 2 proceed eastbound for about a mile before he made a u-turn and attempted to drive westbound in the westbound lanes of traffic. The vehicle began to fishtail, its left rear caught fire and the vehicle became disabled. Officer G assisted with removing Subject 2 from the vehicle and transported him to the hospital. While at the hospital, Officer G learned, from other officers, that Subject 1 had been shot by the police. Officer G did not witness the police involved shooting.

During an **in-person interview, the accused, Officer H**, provided an account that was consistent with the description of events that were documented in the report of Assistant Deputy Superintendent A. Officer H denied the allegations and stated that he was working with Officer I. Officer H drove westbound in the eastbound lanes of the I-290 Expressway because the necessity to immediately apprehend Subject 2 outweighed the level of inherent danger created by the motor vehicle pursuit. Officer H observed the vehicle driven by Subject 2 after it became disabled. At that time, he and Officer I

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removed Subject 1 from the vehicle, observed that he was bleeding and placed him into custody. Officer H later learned from other officers that Subject 1 had been shot by the police. Officer H did not witness the police involved shooting.

During an **in-person interview, the accused, Officer I**, denied the allegations, provided an account that was consistent with the description of events that were documented in the report of Assistant Deputy Superintendent A, and corroborated the account of her partner, Officer H. Officer I did not observe the police involved shooting.

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CONCLUSION:

This R/I recommends that the allegations be **Unfounded** against Officer A, Officer D, Officer E, Officer G, Officer H and Officer I. This investigation found that the use of deadly force by Officer A was in compliance with Chicago Police Department policy and the vehicle pursuit by Officer D, Officer E, Officer G, Officer H and Officer I were also in accordance with Department policy. According to the Chicago Police Department's General Order 02-08-03, Section 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.

According to the Chicago Police department's General Order 03-02-01, Section II., A.:

The initiation, continuation, and supervisory authorization of each motor vehicle pursuit must conform to the following Balancing Test:

The necessity to immediately apprehend the fleeing suspect outweighs the level of inherent danger created by a motor vehicle pursuit.

The evidence indicates that Subject 2 dragged an officer with the vehicle he was driving and drove on the I-290 Expressway with the flow of traffic and against the flow of traffic. The actions of Subject 2 placed the lives of several citizens and officers in danger. Subject 2 also attempted to strike Officer F in effort to elude the police. Subject 2 continued to drive the wrong way on the expressway, despite the inherent dangers of his actions. The evidence indicates that Officer A fired in the direction of the vehicle Subject 2 was driving after he saw Subject 2 driving toward Officer F as she was exiting the squadrol and he feared for her life. POs Officer D, Officer E, Officer G, Officer H and Officer I each stated they continued to drive the wrong way on the expressway, in pursuit of Subject 2, because the necessity to immediately apprehend Subject 2

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outweighed the level of inherent danger created by a motor vehicle pursuit. The Traffic Review Board concluded that the officers' involvement in the vehicle pursuit was "In Compliance" with Department General Order 03-02. The Traffic Pursuit Report concluded that the "Balance Test" was used and justified the continuation of the pursuit. Based upon the totality of the circumstances surrounding the police involved shooting of Subject 1, Officer A was justified in using deadly force; and POs Officer D, Officer E, Officer G, Officer H and Officer I were justified in their vehicle pursuit of the vehicle Subject 2 was driving.