

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1020388/U# 08-37

INVESTIGATION

NUMBER: Log # 1020388, /U # 8-37, Officer Involved Shooting

OFFICER

INVOLVED #1: "Officer A" (Chicago Police Officer); Male/Black; 36 years old; On Duty; Civilian Dress; Year of Appointment – 1999

OFFICER

INJURIES: "Officer B" (Chicago Police Officer); Male/Black; 39 years old; On Duty; Civilian Dress; Year of Appointment – 1994
One Gunshot wound to head, One Gunshot wound to Right Shoulder, Two Gunshot Wounds to Right Front Forearm.

SUBJECT: "Offender 1" – Male/Black; 37 years old

SUBJECT

INJURIES: Six Gunshot wounds to Abdomen Chest, Seven Gunshot wounds to the arms/legs-Per Dr A.

INITIAL

INCIDENT: Officers were conducting surveillance prior to executing a search warrant.

DATE/TIME: 28 Sept 2008, at 0550 hours

LOCATION: 7900 block of South Clyde Avenue, On the street
Beat 414

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INVESTIGATION:

On 28 September 2008, Assistant Deputy Superintendent A submitted his Weapon Discharge Incident Involving a Sworn Member Shots Fired at/by The Police With Hits Report. He reported that on 28 September 2008, members of Unit 189 from CPD Sgt. A's 6220 team were scheduled to execute a search warrant on the 7900 block of South Clyde. Officer B and Officer A were assigned to conduct surveillance on the target of the warrant, Subject 1, and his residence. During the surveillance, Officer B and Officer A were in separate covert vehicles and remained in contact with CPD Sgt. A and the rest of the team via Nextel Radios. CPD Sgt. A was in another vehicle with the other team members. The team members present for that day's assignment were Officer B, Officer A, Officer C, Officer D, Officer E, and CPD Sgt. A.

The target of the warrant Subject 1 arrived home during the course of Officer B's and Officer A's surveillance. Officer A informed CPD Sgt. A that the suspect, Subject 1, pulled up and parked the car he was driving in front of the residence on the 7900 block of South Clyde. Officer A asked CPD Sgt. A if Subject 1 should be taken into custody or permitted to enter the residence. CPD Sgt. A authorized the officers to take Subject 1 into custody if it could be done safely. Officer B approached Subject 1's vehicle from the rear. When Officer B exited his vehicle, he announced his office and instructed Subject 1 to raise his hands as he walked toward the front of his covert vehicle. When Officer B reached the front of his vehicle, Subject 1 opened the driver's side door and began firing at Officer B who fell to the street wounded with one gunshot wound to the head, one gunshot wound to the right shoulder, and two gunshot wounds to the right front forearm.

Officer A approached Subject 1's car from the front, as he was approaching he heard the gunshots and observed muzzle flashes toward Officer B. Officer A then discharged his weapon ten times at Subject 1 through the vehicle's windshield. Officer A then attempted to assist Officer B and requested help over his Nextel Radio.

CPD Sgt. B of Beat 430 was at the intersection of 79th and Clyde when he heard gunshots being fired. He turned south and arrived at Officer B's vehicle where he

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announced over the zone radio that an officer had been shot. Upon approaching Subject 1's vehicle, CPD Sgt. B observed him in a prone position on the floor of his vehicle with a revolver partially visible in his hand. CPD Sgt. B removed the revolver from Subject 1's hands and placed it on the parkway adjacent to the vehicle where it was later recovered by the assigned mobile unit. Officer B was transported to Christ Hospital and Subject 1 was transported to Stroger Hospital.

In a Summary of the **Roundtable Panel Interviews** dated 28 September 2008, Investigator A reported that Officer B died from the wounds inflicted by Subject 1. At the time of the summary, Subject 1 was in extremely critical condition. The summary related information not inconsistent with the information provided by Assistant Deputy Superintendent A. Specifically, according to the report, Officer A stated that he and Officer B were performing surveillance in the preparation for execution of a narcotics warrant for Subject 1 at his residence. Officer A stated that he was parked three doors south of the residence on the 7900 block of South Clyde, when Officer B radioed from north of 79th Street on Clyde to say that he saw Subject 1 driving toward his home and that Subject 1 was on the block. Officer A stated that the two informed their sergeant that Subject 1 was on the block and asked if he should be detained. According to Officer A, the two officers were told to "go ahead if it's safe." At which point Officer B said he was ready and drove south on Clyde. When Officer B arrived at Subject 1's vehicle, Officer A said Officer B approached the driver's side of Subject 1's car and stated, "I am a police officer, show me your hands." Officer A further stated that while he never saw Subject 1's gun, he did see "muzzle flashes" from Subject 1's car at which point he began firing his weapon through the windshield at Subject 1.

CPD Sgt. B provided a statement to the Roundtable Panel. His statement was in line with the statement as reported by Assistant Deputy Superintendent A.

CPD Detective A, provided a statement to the Roundtable Panel. CPD Detective A stated that he went to Stroger Hospital at approximately 0640 hours to check on the status of Subject 1 and was informed that his condition was "extremely critical." CPD

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Detective A also stated that CFD paramedics recovered two small bags suspected to be rock cocaine from Subject 1's mouth which they turned over to CPD Detective A. (Att. 6).

The **Search Warrant** permitted the search of Subject 1 and the premises located on the 7900 block of South Clyde to seize cocaine, any documents showing residency, any paraphernalia used in the weighing, cutting or mixing of illegal drugs and any money, or records detailing illegal drug transactions and proof of residence. (Att. 80).

The **Tactical Response Report** for **Officer B** indicated that Officer B produced his service weapon when Subject 1 did not follow verbal direction, opened his door to display a weapon and used force against Officer B likely to cause death or great bodily harm. Assistant Deputy Superintendent A determined that Officer B's actions were in compliance with Department policy relative to use of force. (Att. 7).

The **Injury on Duty Report** stated that Officer B received gun shot wounds to the head and chest while on a narcotics investigation working in civilian dress. (Att. 8).

The **Officer's Battery Report** stated that Officer B was on duty in citizen's dress when he was shot. (Att. 9).

The **Tactical Response Report** for **Officer A** stated that he discharged his service weapon at Subject 1 after Subject 1 placed him in imminent threat of battery when he opened the door and produced a weapon. The report indicated that he shot 10 times while standing 10-15 feet from Subject 1. Assistant Deputy Superintendent A determined that Officer B's actions were in compliance with Department policy relative to the use of force. (Att. 10).

In the **Witness of Battery To/From** he drafted, Officer A stated that he was working in civilian dress conducting surveillance for a search warrant at a residence on the 7900 block of South Clyde with Officer B when Officer B approached the offender

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and the offender fired, striking Officer B. Officer A stated that Officer B was taken to Christ Hospital. (Att. 11).

The **Case Report** indicated that an Aggravated Battery to a Police Officer occurred when Subject 1 opened the door to his vehicle and fired shots at Officer B who was approaching Subject 1's vehicle and who had announced his office. (Att.12).

Subject 1's **Arrest Report** indicated that he was charged with Murder in the First Degree, three counts of being an Armed Habitual Criminal and with possession of cocaine. (Att. 13).

The **Case Supplementary Report** indicated that an observation of the home located on the 7900 block of South Clyde revealed the existence of eight mounted security cameras. Three cameras were facing eastbound toward Clyde Avenue (appearing to record the front porch/ sidewalk/street), two on the north pointed toward Clyde and one pointed toward the rear of the home, there were two at the rear of the home one pointed north and one pointed south, and one on the south side of the home pointed toward Clyde. It is reported by CPD Detective B that subsequent to obtaining a warrant (08SW6840) for the video equipment recovered at Subject 1's home it was learned from CPD Sgt. C that the last available recording found was dated October 2006.

According to the Case Supplementary Report, Officer A stated that during surveillance Officer B observed Subject 1 arrive on the scene. Officer B radioed CPD Sgt. A and asked her what they should do upon his arrival. Officer A stated that CPD Sgt. A responded that Officer A and Officer B could stop Subject 1 before he entered his residence if they felt they could do it safely.

The Case Supplementary Report also included a summary of a statement obtained from Witness 1, Subject 1's wife. Witness 1 stated that she has lived at the home with Subject 1 for six years and the couple has been married for two years. Witness 1 further stated that when she went to sleep in the early morning hours of 28 September 2008, her husband Subject 1 was in the bed with her. Witness 1 stated she awoke from her sleep

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after hearing gunfire and eventually saw her husband outside, seated in his vehicle, slumped over to the side. (Att. 79).

Event Query Reports created during the incident indicate that on 28 September 2008, at 0534 hours, a call was logged stating that a plainclothes officer had been shot in the head. Units 6220, 323, 321, 320, 311 and 313 were dispatched and the fire department was informed. Other callers called the Chicago Police Department and reported hearing multiple shots fired. (Atts. 37-52).

Obtained medical records relating to Subject 1's injuries. Subject 1 sustained multiple gun shot wounds to the chest and abdomen. On 28 September 2008, IPRA Investigator B responded to Stroger Hospital for the purpose of obtaining information about Subject 1. Upon arrival, she was informed that Subject 1 was in surgery being treated for multiple gunshot wounds to his chest and stomach area. (Att. 14).

The **Chicago Fire Department Incident Detail Report** stated that Subject 1 was found bent over in the passenger seat of a vehicle on 79th Street and Clyde Avenue with gunshot wounds to the chest and abdomen. The report further noted that 2-4 small bags of hard substance were noted in Subject 1's mouth. Finally, multiple bullet holes were noted in the windshield of the car that Subject 1 was found in. (Att. 31).

Attempts to reach **Offender Subject 1** for a statement were unsuccessful. On 28 September 2008, IPRA Investigator B responded to Stroger Hospital for the purpose of obtaining information about Subject 1. Upon arrival, she was informed that Subject 1 was in surgery being treated for multiple gunshot wounds to his chest and stomach area. Subject 1 later informed IPRA that on the advice of counsel, he would not provide a statement. (Atts. 27, 57, 62-67).

Attempts to contact Subject 1's wife, **Witness 1**, for a statement were similarly unsuccessful. (Atts. 26, 36).

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A **Canvass** of the area was conducted, but no additional witnesses were identified. (Att. 16).

The **Case Supplementary Reports** provided the following information: An autopsy performed on Officer B on 29 September 2008 determined the cause and manner of death to be Multiple Gunshot Wounds/Homicide. Officer B's injuries were listed as one gunshot wound lodged in his upper right chest, one lodged at the top of his head and one wound that displayed an entry in his outer right forearm and an exit in his inner right forearm. (Att. 133)

The gun used in the shooting of Officer B belonged to [Unnamed Male]. [Unnamed Male] retired from the Chicago Police Department in 1993. [Unnamed Male] was interviewed by CPD Detective C and CPD Detective D on 15 October 2008, where he stated that he believed the weapon had been reported lost or stolen. (Atts. 134).

The Office of the Medical Examiner **Report of Postmortem Examination** indicates that Medical Doctor A conducted the autopsy of Officer B. The visual post mortem examination of Officer B revealed a gun shot wound to the top of his head, right arm and right torso area. During the post mortem examination, a deformed lead bullet, copper jacket and a lead fragment was recovered from the right side of Officer B's brain. A medium caliber, copper jacketed bullet was recovered from the right lung. The cause of death was determined to be multiple gun shot wounds with the manner of death being Homicide. (Att. 54)

In a Statement to the Independent Police Review Authority on 09 July 2009, **Chicago Fire Paramedic (CFP) A** stated that on 28 September 2008, he and his partner received a call of "person shot." CFP A stated that while en route, the two learned that the person shot was a police officer. When they arrived at the scene, CFP A recalled that they pulled the ambulance up from the north end of 79th Street and Officer B was lying in the street on the south end of 79th Street. Upon arrival, the paramedics were directed to Officer B who they immediately collected and returned to the ambulance. CFP A stated

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that they were on the scene a total of six minutes. CFP A stated that he did not recall when the second ambulance arrived and did not recall if he or his partner had called for it. (Att. 108).

In a Statement to the Independent Police Review Authority on 16 July 2009, **Chicago Fire Paramedic (CFP) B** stated that on the date of the incident, he and his partner responded to a call of a “person down.” CFP B recalled that when he arrived on the scene there were approximately 20 officers there. CFP B further recounted that Officer B was lying on the ground and when he approached him he observed brain matter and a weapon lying on the ground next to his body. CFP B and his partner began treating Officer B when they heard over the radio that there was a second patient on the scene. CFP B recalled that one of the officers responded that there was no other patient on the scene and further recalled that they never saw Subject 1, only learned of him after arriving at the hospital. CFP B also recalled that at some point during the treatment of Officer B his shirt was removed. CFP B did not recall seeing a police star on Officer B’s neck during treatment or in the ambulance. (Att. 113).

In a To/From Report to the Independent Police Review Authority dated 25 January 2011, Area Two **CPD Detective E** stated that on 28 September 2008 he was on duty and assigned to investigate the homicide of Officer B. CPD Detective E stated that he interviewed Officer A and learned that Officer A, Officer B and the team members communicated that day over Nextel Phones. CPD Detective E further stated that the summary account of his interview with CPD Sgt. A contained in the Cleared Closed Case Supplementary Report was accurate. (Att. 140).

In a To/From report to the Independent Police Review Authority dated 20 October 2010, **CPD Detective F** stated that he was on duty on 28 September 2008 when he was assigned to the matter in question. CPD Detective F stated that CPD Sgt. A was not present for the Roundtable Panel discussion held in this matter. CPD Detective F further answered that during the interview with CPD Sgt. A, CPD Sgt. A related that Officer A and Officer B were on an early surveillance on the date in question while she and Officer

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D, Officer C and Officer E were in a squad car headed to the location of the surveillance. CPD Detective F stated that CPD Sgt. A recounted that Officer B informed them through his Nextel that the target had arrived at the location. CPD Detective F stated that CPD Sgt. A related that she told Officer B and Officer A they could “scoop up” the target if they could do it safely. CPD Sgt. A also stated that she told them to make sure they had on their equipment. (Att. 139).

In a statement to the Independent Police Review Authority on 19 May 2009, **Officer A** stated that on 28 September 2008 he was on duty conducting surveillance on the 7900 block of Clyde. He recalled that on that date he was working in plainclothes, wearing a vest, raid jacket and star. Officer A was working along with Officer B who had the same equipment and identifiers on. Officer A was in an unmarked vehicle. Upon questioning, Officer A stated that he had previously conducted surveillance on that block and was there on that date with Officer B to execute a search warrant. Officer A recounted that the day before the surveillance, a planning meeting was held where it was discussed that the warrant would be executed at about 7:00 am the following day and Officer B and Officer A were going to conduct surveillance on the home. Officer A continued, stating that at the planning meeting, which occurred at Unit #189, the team discussed the position each team members would be in and what each person’s role would be. Furthermore, the group discussed the location of nearby hospitals to prepare in case anything happened. Officer A recalled that on the day of the operation, the team had both a search warrant for the house as well as an arrest warrant for the offender. Officer A stated that prior to the incident he had no knowledge of the subject’s arrest history and was not aware that he had previously attempted to shoot a police officer. He did recall having knowledge of the subject’s drug history and stated that the information was given to him by CPD Sgt. A.

Officer A stated that he arrived to the 7900 block of S. Clyde at approximately 5:00 AM. Officer B had arrived prior to Officer A. The team was in communication that day via Nextel Radios. Officer A stated that the use of Nextel Radios was typically how the Narcotics Unit communicated. Upon arrival at the scene,

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Officer A observed where Officer B was positioned on the block and Officer A curbed his vehicle three houses south of the subject's address. Officer A and Officer B were on the scene for less than 15 minutes when they observed the subject, Subject 1, arrive. Officer A recalled that via Nextel, Officer B notified CPD Sgt. A and the rest of the team that Subject 1 had arrived on the block. Officer A stated that Subject 1 then pulled up in front of his home. Via Nextel, Officer B next requested permission to take the subject into custody before he entered his home. Officer A recalled that CPD Sgt. A gave permission to detain the subject safely at which time Officer A and Officer B decided, over their Nextel Radios, that Officer B would come down the block in his vehicle and park behind Subject 1 at which point Officer A would walk toward Subject 1 in the street. Officer A recalled that Officer B's weapon and star were clearly displayed as he exited his vehicle. Officer A heard Officer B announce his office and tell Subject 1 to put his hands up. Officer A recalled that Subject 1 then looked at Officer B, nodding as if he heard him and agreed with the request. Officer A stated that upon Subject 1 nodding his head as if he heard Officer B, Officer B closed his car door which he had been using as a shield as he exited the car. At that point, Officer B's car was parked in the middle of the street behind the rear of Subject 1's car. Following Officer B shutting his car door, the next thing Officer A recalled was hearing three shots being fired and he saw muzzle flashes from Subject 1's vehicle. Officer A was approximately 10 feet away from Subject 1 at the time and Officer A shot his weapon through the windshield into Subject 1's vehicle 10 times. Officer A advanced toward Subject 1 as he shot at him. After the initial shot, Subject 1 attempted to move to the passenger side of the vehicle. Officer A stated that he stopped firing when he could not see Subject 1 anymore because he had fallen between the dashboard and the seats. Officer A recalled that when he moved around to the driver's side window, he looked to his right and saw a uniformed officer approaching in a squad car. Officer A observed Officer B on the ground and held him while telling the uniformed officer that arrived that there was an officer down. Officer A reported shots fired over his Nextel Radio to his team who arrived no less than a minute later. Officer A recalled Subject 1's wife exiting the home at some point but recalled no other civilians present in the street at the time. (Att. 94)

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A Report from the Illinois State Police (ISP), Division of Forensics Services, dated 08 December 2008, indicates that the Smith & Wesson, model 36,38 Special Revolver, serial number # 491694, was examined, found to be in firing condition and test fired. Four Winchester 38 Special +P fired cartridge cases were found to have been fired from the Smith &Wesson Revolver.

The report further indicates that a Smith & Wesson, model 5943, 9mm Luger semiautomatic pistol, serial number KJF4488, was examined and found to be in firing condition and test fired. (Att. 91)

A Report from the Illinois State Police (ISP), Division of Forensics Services, dated 30 October 2008, indicates that the Revolver, four discharged cartridge cases and one live cartridge were examined and revealed no latent impressions suitable for comparison. (Att. 92)

A Report from the Illinois State Police (ISP), Division of Forensics Services, dated 4 November 2008, indicates that blood was indicated on the Smith and Wesson Revolver. (Att.93)

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CONCLUSION AND FINDING:

The Investigation found that the use of deadly force by Officer A was in compliance with Department Policy. According to the Chicago Police Department's General Order No. 02-08-03, III:

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 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;
 - b. is attempting to escape by use of a deadly weapon or
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay

Officer A was in compliance with the requirements of the Departments deadly force policy. Officer A and Officer B were conducting surveillance prior to the execution of a search warrant at the home of Subject 1. After Officer B approached Subject 1's vehicle and identified himself as a police officer, Subject 1 open fired on Officer B striking him repeatedly. Officer A approached Subject 1 and fired his weapon through the windshield to stop the threat of death and great bodily harm to his partner Officer B, who lay in the street after being struck.