

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1020655/U# 08-38

INVESTIGATION

NUMBER: LOG # 1020655 / U# 08-38

OFFICER

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 37 years old;
Off-Duty; Not in uniform; Year of Appointment – 1997

OFFICER’S

INJURIES: None Reported

SUBJECT#1: “Subject 1”; Male/Black; 17 years old

SUBJECT#1

INJURIES: One gunshot wound to right buttock

SUBJECT#2 “Subject 2”; Male/Black; 16 years old

SUBJECT #2

INJURIES: One gunshot wound to rear left flank, lodged in left arm

DATE/TIME: 8 October 2008, at 2335 hours

LOCATION: 82XX S. Maplewood Avenue, Chicago, IL,
Beat 835

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SUMMARY OF INCIDENT:

At approximately 2335 hours, on 8 October 2008, Officer A returned home to 82XX S. Maplewood. After parking his car in the garage behind his house, he made his way around the outside of his rear fence in order to let out his dog. At this point, two young men approached him with their shirts pulled over the lower half of their faces. The young man closest to Officer A (later determined to be Subject 2) pointed what looked like a gun at his stomach and demanded that he hand over his money. Officer A then drew his gun from its holster and shot Subject 2. Subject 1 was standing further away and he was observed by Officer A, making movements that were considered to be aggressive. Officer A shot Subject 1 in the right buttock.

After each of them were shot Subject 2 and Subject 1 fled on foot around Officer A's fence in an attempt to escape across his front yard. Officer A caught Subject 1, who had fallen to the ground in his front yard. Officer A saw Subject 2 flee the scene in a maroon Chevy Corsica. Officer A immediately called 911 on his cell phone to report that he had been involved in a shooting and he described the car that Subject 2 had driven away in (Att. #4, #9).

Officer B was off duty, driving on his way to work when he observed a car driving without it's headlights on. He saw this vehicle past him and it was traveling south on Kedzie near 95th Street. He also noticed that there were some other squad cars traveling on Kedzie with their emergency equipment activated. Officer B called a friend, Officer C, who was on-duty, to ask him if he knew what was happening and to report what he had just seen. Officer C sent out a flash message with the information that Officer B provided (Att. # 4, 9).

After receiving the flash message, Officer D and Officer E drove to the Little Company of Mary Hospital in search of Subject 2. They found a car that matched the flash message description of the vehicle that Subject 2 had fled in. This car was parked in front of the emergency room. Officer D and Officer E immediately detained the driver, Subject 3, and radioed for assisting units. The officers searched the vehicle and discovered a replica .45 Smith and Wesson handgun and blood stains in the back seat of the car. Upon the arrival of assisting units, Officer D and Officer E entered the hospital and located Subject 2 in the emergency room, where he was being treated for a gunshot wound (Att. # 4).

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Officer A, Officer B, Officer C along with Officer D, CPD Detective 1 and CPD Detective 2 each provided accounts of the incident to the Roundtable panel.

Officer A related to the Roundtable panel an account that was consistent with the summary of incident above. Officer A stated that he was walking along the outside of his fence when two young black male subjects approached him (later determined to be Subject 2 and Subject 1). They said, "Give me your money." Officer A replied, "What?" At which point Subject 2 pointed a gun at Officer A's stomach. Officer A identified himself as a police officer. Fearing for his life, Officer A removed his gun from its holster and fired once at Subject 2. Subject 1 then moved in a manner that Officer A took to be aggressive. Again in fear for his life Officer A fired once at Subject 1. Both Subject 2 and Subject 1 then turned and ran towards the front yard of Officer A's house. When Officer A reached the front yard, he saw Subject 1 lying on the ground and Subject 2 was seen fleeing the scene in a maroon Chevy. Officer A remained near Subject 1 as he called 911 to report the incident (Att. # 9).

Officer B related to the Roundtable panel an account that was consistent with the summary of the incident above. At the time of the incident Officer B was off-duty and driving to work. He was driving north on Kedzie a few blocks north of 95th Street when a car, with its headlights turned off, sped past his car headed southbound. Officer B observed some squad cars with their blue lights flashing to the north of his location. He called a friend, who was an on-duty Officer C and asked him what was going on. Officer C told him that there had been a police-involved shooting and described the offenders' car. Officer B told Officer C that a car matching that description was speeding southbound down Kedzie around 95th Street (Att. # 9).

Officer C related to the Roundtable panel an account that was consistent with the summary of the incident as described above. Officer C told the panel that he was near 83rd and Kedzie Avenue when he received a call from Officer B. He immediately relayed the information given to him by Officer B over the radio (Att. # 9).

Officer D related to the Roundtable panel an account that was consistent with the summary of the incident above. Officer D reported that he received Officer C's flash message. Since he was already armed with the knowledge that Subject 2 had suffered a gunshot wound, Officer D and Officer E headed for the Little Company of Mary Hospital. There they discovered the offenders' vehicle parked in front of the emergency room area. The driver of the vehicle, identified now as Subject 3, was detained and once additional units arrived, Officer D and Officer E went to search for Subject 2 inside the hospital. Meanwhile Officer D discovered what he thought was a firearm in the back of the offender's vehicle, along with numerous credit cards and a large blood stain on the seat. After assisting arrived, Officer D and Officer E located Subject 2 in the emergency room where he was being treated for a gunshot wound. Officer D placed Subject 2 under arrest (Att. # 9).

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CPD Detective 1 related to the Roundtable panel an account that was consistent with the summary of the incident above. CPD Detective 1 informed the panel that Subject 2 suffered gunshot wounds to his outer upper left arm, inner left arm and upper left flank. He also told the panel that Subject 2 was not questioned after it had been determined that Subject 2 was a juvenile (Att. # 9).

CPD Detective 2 related to the Roundtable panel an account that was consistent with the summary of the incident above. CPD Detective 2 told the panel that Subject 1 was in stable condition after being treated for a gunshot wound to his right buttock (Att. # 9).

The report prepared by Acting Assistant Deputy Superintendent Commander A provides an account of the incident that is consistent with the Summary of the incident above (Att. # 4).

In a signed statement given to the IPRA on 5 August 2009, at 1538 hours, Involved Officer A provided the account of the incident summarized below. The account is consistent with his account given before the Roundtable panel and the above summary of the incident. Just before the incident, Officer A returned home from work. After pulling his car into the garage behind his house, he walked along the outside of his house to open the gate to his side yard. At this time, two young males approached him from his front yard. They both pulled their shirts over the bridge of their noses to conceal their identities. One offender (later determined to be Subject 1) stopped roughly ten feet away from Officer A. The other offender (later determined to be Subject 2) stopped roughly two feet to the left of Officer A and demanded, "Give me your money." Officer A, thinking it was a joke, replied, "You've got to be kidding right?"

At this point Subject 2 points what looks like a handgun at Officer A's stomach and repeats, "give me your money." Officer A tells Subject 2 that he is a police officer. Then, in fear of losing his life, he withdrew his gun and shot Subject 2. Under the assumption that Subject 1 was also armed, Officer A fired at him as well. Subject 2 and Subject 1 fled about four feet south and headed west across Officer A's front yard, out of Officer A's line of sight. Officer A crept around his fence and surveyed the area in front of his house. He observed Subject 1 lying on the ground and once he approached him he saw that he was bleeding. Officer A ordered Subject 1 to reveal his hands. Officer A saw that Subject 2 had already entered a maroon Chevy that was seen fleeing westbound on 83rd Street. Officer A called 911 to report the incident (Att. # 33).

A signed statement given to the IPRA by Witness Officer B on 4 September 2008, at 0603 hours, provided the account of the incident summarized below. The account is consistent with the summary of the incident described above. Officer B was off-duty and driving to report for work at the time of the incident. He was traveling northbound on Kedzie near 91st Street when he observed another vehicle traveling southbound and barreling toward him with its headlights turned off. The vehicle was less than a foot away when he passed his car. Officer B observed two people in the vehicle: one driver and one passenger lying on the back seat. Officer B noticed the driver of the vehicle was a young

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black male, but the vehicle was traveling too fast for him to make out the race or gender of the back seat passenger. Officer B saw some squad cars further north and observed their blue lights flashing. Officer B telephoned his friend, on-duty Officer C, to see if there was a connection.

Officer C told Officer B that there had been a police-involved shooting and that the police were looking for a red Chevy Corsica. Officer B told Officer C about the vehicle that had just passed him. He told Officer C that the vehicle was heading south and at 95th and Kedzie the vehicle had turned left, heading eastward, possibly en route to Little Company of Mary Hospital or Christ Hospital (Att # 35).

On 27 June 2009, the R/I attempted to interview Subject 1, but he declined to answer questions regarding the incident (Att. #23).

On 27 January 2009, the R/I attempted to interview Subject 3, but he declined to answer questions regarding the incident (Att. # 23).

The R/I sent letters to the parents of Subject 2, Subject 1 and Subject 3, but they did not respond (Att. # 16, 21, 27, and 29).

No witnesses were located during the canvass conducted in the vicinity of the incident on 10 November 2008 (Att. # 10).

A medical report for Subject 2 from Little Company of Mary Hospital indicates that he had four gunshot wounds when he was admitted into the emergency room. Two of the wounds were located on the interior and exterior of his upper left arm. Another gunshot wound was located around his left anterior auxiliary line. The fourth gunshot wound was located around the left posterior auxiliary line. The report indicates that bullet fragments were found in Subject 2's upper left arm. There was minimal fracturing of Subject 2's left eighth rib (Att. #19).

A medical report for Subject 1 indicates that he was treated at Christ Medical Center for a gunshot wound to his right buttock and hip region (Att. # 18).

A Case and/or Supplementary Report provides an account of the incident that is consistent with the Summary of the Incident above. In addition, the report includes admissions from Subject 1 and Subject 3 that the incident above was only the last string of robberies committed that night by themselves and Subject 2 (Att. #s 17, 28)..

On 21 May 2009 Subject 3 plead guilty and was sentenced to five years in the Illinois Department of Corrections (Att. # 39).

The Evidence Technician photographs depict the approximate vicinity of Maplewood and 83rd Street; the exterior fence near Officer A's house, Subject 1's clothes which were lying on the ground outside Officer A's home; Subject 2's gunshot wounds; the exterior

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and interior of a 1994 Chevy Corsica, with license plate number XXXXXXXX; a Crossman air gun (carried by Subject 2) lying on the floor of the car; Subject 2's blood stains on the car seat; and a .Derringer .38 caliber two-shot, which was carried by Subject 1 (Att. # 6).

The Office of Emergency Management and Communication (OEMC) Event Query and its subsequent recording provide information indicating that Officer A contacted "911" and reported the shooting incident and gave a description of the offender and the vehicle that he fled in (Att. # 25).

A report prepared by the Illinois State Police Division of forensic Services (ISP), dated 24 October 2008 indicates that the top barrel of the Derringer handgun that Subject 1 dropped at the scene was inoperable. The bottom barrel was found to be in firing condition. The report also indicates that Officer A's Smith & Wesson semi-automatic handgun was in firing condition and both Winchester .45 caliber cartridge cases which were inventoried at the scene of the incident were fired from Officer A's weapon (Att. #26).

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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 and state statutes. According to the Chicago Police Department's General order No. 09-08-02, 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 o
 - 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 officer's actions were in accordance with the requirements of the Department's deadly force policy. Subject 2 attempted to commit a forcible felony and threatened the life of Officer A by pointing a weapon at him. Subject 1 was in the company of Subject 2 and Subject 2's actions make Subject 1 a co-defender. As such Officer A was justified in responding to this threat with deadly force.