

Independent Police Review Authority
Log #1021555 U# 08-44

INVESTIGATION

NUMBER: Log # 1021555 U # 08-44

OFFICER

INVOLVED #1: “Officer A” (Chicago Police Sergeant); Male/Hispanic; 42 years old; On Duty; Civilian Dress; Year of Appointment – 1995

OFFICER’S

INJURIES: None reported

OFFICER

INVOLVED #2: “Officer B” (Chicago Police Sergeant); Male/White; 35 years old; On Duty; Civilian Dress; Year of Appointment – 1995

OFFICER’S

INJURIES: None reported

OFFICER

INVOLVED #3: “Officer C” (Chicago Police Officer); Male/White; 34 years old; On Duty; Civilian Dress; Year of Appointment – 2001

OFFICER’S

INJURIES: None reported

OFFICER

INVOLVED #4: “Officer D” (Chicago Police Officer); Male/White; 62 years old; On Duty; Civilian Dress; Year of Appointment – 1981
(Did not fire a weapon), currently retired

OFFICER’S

INJURIES: None reported

OFFICER

INVOLVED #5: “Officer E” (Chicago Police Officer); Male/White; 27 years old; On Duty; Civilian Dress; Year of Appointment – 2004
(Did not fire a weapon)

SUBJECT:

“Subject 1”; Male/Black; 28 years

SUBJECT’S

INJURIES: Gunshot wounds (DECEASED)

DATE/TIME:

08 November 2008, 2030 hours

LOCATION:

4445 S. Dr Martin Luther King Jr. Dr, Chicago, IL 60653

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SUMMARY OF INCIDENT:

CPD Assistant Deputy Superintendent A submitted a report dated 8 November 2008. The report states that on 08 November 2008, at approximately 2020 hours, Officer A and Officer B, received information that some robbery offenders and a vehicle used in the robbery were at 4316 S. King Drive. Officer A and Officer B and other units positioned themselves in various locations near this location.

Officers A and B observed two male blacks exit 4316 S. King Drive and enter the vehicle. They followed the vehicle and tried to curb it. Officer D's squad car was curbed near 45th St. The driver of the vehicle (later identified as Subject 1) pointed a semi-automatic pistol over the steering wheel and drove the car in reverse. Subject 1 then drove eastbound on South King Dr. and turned northbound onto a service drive at a high speed. Subject 1 crashed the vehicle into a fire hydrant. The passenger offender (later identified as Subject 2) exited the vehicle and fled.

Subject 1 placed the vehicle in reverse and drove northbound on the service drive. Officers A and B exited their squad car and approached the vehicle driven by Subject 1. Officer B tapped on the driver's window with his weapon, stated that he was a police officer and ordered Subject 1 to stop driving.

Officer A was standing behind the car. He saw Subject 1 raise a semi-automatic gun toward Officer B. Officer A fired one round into the car. Officer B also saw Subject 1 point a gun at him. Officer B fired his weapon at Subject 1 twice. Subject 1 placed the car in reverse and began backing up directly toward the area where Officer A and Officer C were standing. Officer A and Officer C both fired their weapons at Subject 1, fearing that he would run over them. Subject 1's car crashed into a tactical vehicle and stopped.

Officer A removed Subject 1, who was fatally injured, from the car. Two semi-automatic guns were discovered on the front seats of the car.

The Roundtable Narrative Report, prepared by CPD Detective 1, states that Officers A and B and Officers C and D all offered consistent accounts of the incident outlined by CPD Detective 1.

The Detective Division's On Scene Contacts report indicated that a witness, Witness 1, was located. Witness 1 stated that she did not see anything. She told the detectives that she heard gunshots. Another witness, Witness 2, told the Detectives that she heard gunshots and looked out of her window to observe what was happening.

A canvass was conducted by IPRA personnel, but no additional witnesses were located.

The event queries indicated that an OEMC call was made by Robbery Victim 1 at approximately 1534 hours. She reported that she was robbed at 347 E. 47th St. by five offenders. She stated that they all had chrome handguns and wore ski masks. A second

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OEMC call was placed by a male caller, at 2016 hours, who reportedly heard six gunshots near a school (NFI). The final OEMC call was made by Witness 3 at 2102 hours. She stated that officers were searching a building at 4314 S. King Dr. (where she resides). She requested a supervisor. The Zone Transmission event queries indicated that shots were fired by police. Beat 268A reported that an offender was in custody behind a school. An officer also requested that an ambulance be sent to 4445 S. King Dr.

The R/I reviewed the OEMC Event Query and identified the 911 callers, Robbery Victim, Witness 3, and "Quin." The R/I attempted to obtain interviews from each of them. The R/I telephoned Robbery Victim 1 and Witness 3 and left them voicemail messages. The R/I telephoned the caller named "Quin." He told the R/I that he did not witness the shooting. He stated that he may have heard gunshots on 08 November 2008.

On 8 November 2008 a witness, Witness 2, was interviewed by IPRA personnel. She stated that she was watching television in her living room when she heard gunshots. She stated that when she looked out of her window she observed a police car, with its emergency lights activated, driving northbound on King Drive. She stated that she saw a white car and a dark colored car in front of a school. Witness 2 stated that the white car attempted to back up but could not. She further stated that the dark colored car make a right turn around the school and she was unable to view it any longer. Witness 2 stated that she observed several men run behind the school. She reportedly did not know whether or not those men were police officers.

Subject 2's Arrest Report indicated that on 8 November 2008, he was charged with Unlawful Use of a Weapon. The arresting officer, Officer D, reported that Subject 2 was the front seat passenger of car being driven by Subject 1. Subject 2 fled when the car came to a stop. He was apprehended later by Officer D. A loaded semi-automatic handgun was found near the passenger seat, on the floor of the car being driven by Subject 1.

On 27 June 2009, the R/I visited Subject 2 at Cook County Jail in order to obtain his statement. He refused to give an interview. He stated that he would contact the R/I at a later date if he decided to give a statement.

Subject 2 was interviewed at Area One by A/1 detectives. According to the summary of his statement, Subject 2 reported that on 27 June 2009 he, Subject 1, and two other individuals (identified only as Subject 3 and Subject 4) robbed a clothing store near 47th and King Drive. After the commission of the robbery, Subject 2 stated that he attended his son's birthday party. At approximately 1800 hours, Subject 1 picked him up and they went to 4316 S. King Dr. to meet Subject 4.

Once he and Subject 1 left the residence at 4316 S. King Drive Subject 1's vehicle was blocked off by a police car. Subject 2 and Subject 1 were armed with handguns. Subject 2 heard Subject 1 say, "I ain't going" when he saw the police. Subject 1 reversed the car, drove through the grass to get to the service drive of King Drive, and slammed his vehicle into a fire hydrant. Subject 2 dropped his gun in the car and fled. When he

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heard gunshots, he laid on the ground because he did not want to get shot. He was placed under arrest.

IPRA Investigator A reported that following a canvass she was contacted by a citizen named [Homeowner]. [Homeowner] told IPRA Investigator A that she had a video camera in her front window which may have captured video images of the shooting. She agreed to provide a copy of the video footage. The footage did not reveal any images which were pertinent to this case.

Video footage from the Collection clothing store pertains to the robbery incident. The R/I noted that on 8 November 2008, at 1527 hours, the video footage shows four male/blacks, wearing ski masks, entering the store. Two males, who were near the front desk of the store, were seen looking towards the front entrance. They were suddenly grabbed and taken away from a front desk at 1528 hours. Then a female/black was pulled to the rear of the store by a male/black, who was wearing a mask. The R/I saw three other male/blacks huddling together and walking towards the rear of the store. The male/blacks were seen grabbing clothing and exiting the store while carrying large dark-colored bulging bags at 1531 hours.

The General Offense Case Report contains details about the nature of the robbery that was committed earlier the same day on 08 November 2008 in the clothing store. The offenders were in possession of leather jackets and Pelle Pelle designer jeans; which were stolen from the Collection clothing store.

A Supplementary Case Morgue Report dated 13 November 2008, stated that Subject 1 sustained three gunshot wounds. The cause and manner of death was Multiple Gunshot Wounds. The Report included an inventory of the involved officers' weapons, the offender's vehicle description, and the items found inside of the vehicle.

IPRA Investigator B responded to the Cook County Medical Examiner's Office to witness the postmortem examination of Subject 1. According to IPRA Investigator B's report, Subject 1 sustained gunshot wounds to his upper right shoulder, to the mid back region, and to the outer left thigh. IPRA Investigator B reported that Medical Examiner, Doctor A, removed bullets from Subject 1's scrotum, left hip and his right upper chest.

A Supplementary Case Cleared Closed Report, dated 13 March 2009, provided descriptions of Subject 1 and the condition of the car he was driving. This report provided information on the clothing found on Subject 1 and clothes found inside the vehicle. The report stated that the clothes found inside the vehicle still had price tags on them from the clothing store.

The report also stated that two handguns (A Colt government model 45 and a Smith & Wesson Sigma 9mm) were recovered from the vehicle: The search of the vehicle uncovered many items that would have been used in the commission of the robbery of the store. These items were ski masks, duct tape, flex ties, laundry bags, and one pair of

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Smith & Wesson handcuffs. Officers C, D, and Officers A and B were interviewed by CPD Detective 1 and CPD Detective 2. They all gave consistent versions of the incident.

A Supplementary Case Report, dated 14 November 2008, detailed the armed robbery that occurred at the clothing store. The report indicated that there were three victims and one witness. The victims are Robbery Victim 1, Robbery Victim 2, and Robbery Victim 3. They told the detectives that several masked males entered the store, dragged them into the back storage room, made them lie facedown, and tied their hands. Robbery Victim 3 added that one of the offenders put a gun to his head when he made him lie down. The witness, Robbery Witness, claimed that he observed two male/blacks leave the store wearing masks. He watched as they fled southbound down an alley.

The Office of the Medical Examiner's Report of Postmortem Examination states that Subject 1 had eight tattoos and a four inch scar on his abdomen. The report indicates that he sustained three gunshot wounds. One entered in the upper right back and lodged in his right anterior chest, where it was excavated. Another bullet entered his lower left back, traveled through the lower part of the left lung, stomach, and heart and lodged in his right anterior chest. The third bullet entered his upper left leg and lodged in his scrotum. Doctor A noted that Subject 1 had a 2' x 2' inch bruise on his right anterior chest. The Internal Examination revealed that Subject 1 had an oxidized lead bullet lodged in his right hip. Doctor A reported that Subject 1 died from having sustained multiple gunshot wounds.

The Illinois State Police Forensic Laboratory Report, dated 6 January 2009, indicates that a Smith & Wesson M&P9, a Sig Sauer P220, a Sig Sauer P228, and Colt MKIV were found to be in firing condition. A separate report, dated 05 March 2009, indicates that one handgun, rounds, and a magazine were submitted for testing and prints on these items matched the fingerprints obtained from Subject 2.

The report dated 27 March 2009 indicated that a Smith & Wesson SW9VE was found to be in firing condition. According to the report dated 31 July 2009, the DNA profiles of Subject 2 and Subject 3 Skipper matched the DNA extracted from two ski masks that were inside Subject 1's vehicle.

Officer A's Battery Report indicates that he was on duty in civilian dress on 08 November 2008, at 20:15 hours. He and three other officers were at the scene where an offender was armed with a gun. He reported that Subject 1 attempted to use his vehicle to strike the officers. Subject 1 also used a gun to hold the officers at gunpoint. Officer A reported that he did not sustain injuries in this incident.

Officer B's Battery Report indicates that he was on duty in civilian dress on 08 November 2008, at 20:15 hours. He and three other officers were at the scene of an incident which involved an offender with a gun. Officer B reported that Subject 1 attempted to use his vehicle to strike the officers. Subject 1 also used a gun to hold off the officers. Officer B did not sustain injuries in this incident.

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Officer C's Battery Report indicates that he was on duty in civilian dress on 08 November 2008, at 20:15 hours. He and three other officers were involved in an incident involving an offender with a gun. Officer C reported that Subject 1 attempted to use his vehicle to strike the officers. Subject 1 also used a gun to hold officers at gunpoint. Officer C did not sustain injuries in this incident.

Officer D's Battery Report indicates that he was on duty in civilian dress on 08 November 2008, at 20:15 hours. He and three other officers were involved in an incident involving an offender with a gun. Officer D stated that Subject 1 attempted to use his vehicle to strike the officers. Subject 1 also used a gun to hold off the officers. Officer D did not sustain injuries in this incident.

The Tactical Response Report, prepared by Officer A on 8 November 2008, indicates that Subject 1 posed imminent threat of battery and used force likely to cause death or great bodily harm. The report states that Subject 1 did not follow verbal commands. Subject 1 pointed a semi-automatic handgun at officers, attempted to flee and he advanced towards officers with his vehicle. Officer A fired at Subject 1 and the vehicle he was driving. The Watch Commander concluded that his actions were in compliance with the Department's policies.

The Tactical Response Report, prepared by Officer B on 8 November 2008, indicates that Subject 1 posed imminent threat of battery. The report indicates that he fled and that he used force likely to cause death or great bodily harm. As a result Officer B fired at Subject 1 and the vehicle he was driving.

The Tactical Response Report, prepared by Officer C on 8 November 2008, indicates that Subject 1 posed imminent threat of battery. The report indicates that he fled and that he used force likely to cause death or great bodily harm. Officer C reported that he fired at Subject 1 and the vehicle he was driving.

The Tactical Response Report, prepared by Officer D on 8 November 2008, indicates that Subject 1 posed imminent threat of battery and he fled the police. Officer D reported that Subject 1 used force likely to cause death or great bodily harm and that Subject 1 did not follow verbal commands. Officer D did not fire his weapon.

Officer D is currently retired from the Chicago Police Department. He was not interviewed by IPRA. Documentation of his retirement was obtained from the Chicago Police Department's Human Resources Division. A Personnel Action Request report indicates that Officer D's retirement was effective 09 January 2009.

Officer A provided an audio interview on 27 June 2011. He stated that on 8 November 2008, he was assigned to the 002nd District's Gang Crimes Unit, 311, and was working the second watch. He stated that earlier that day he had received information concerning a robbery incident. He learned the whereabouts of a white Dodge Journey that had been used in the commission of a robbery. Officer A set up surveillance of that vehicle at 4316 S. King Drive.

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Officer A saw the Dodge at that location. He waited until two offenders entered and began driving it away. Officer A and other units followed the Dodge. The Dodge (which was being driven by Subject 1) drove westbound on King Drive's service drive. At some point he observed Subject 1 point a weapon in their direction. Subject 1 continued to drive over the grassy median and continued northbound and then eastbound. The officers tried to use their vehicles to block Subject 1's vehicle in. Subject 1 lost control of the vehicle and struck a fire hydrant.

The second offender (Subject 2) fled the vehicle on foot. Subject 1 tried to escape by driving forward Officer B exited his squad car and approached the vehicle where Subject 1 was seated. Officer B tried to open Subject 1's door. Subject 1 raised a large semi-automatic handgun in Officer B's direction. The officers ordered him to drop his gun. Officer A and Officer B fired at Subject 1. Subject 1 placed his vehicle in reverse to drive toward Officer A and Officer C (who were standing behind the vehicle). Officer A and Officer C fired into the vehicle being driven by Subject 1.

On 6 July 2011, Officer B provided an audio interview. He stated that on 8 November 2008 he was assigned to the 002nd District's Gang Crimes Unit, 311, and was working with Officer A. He stated that earlier that day Officer A had received information concerning a robbery that occurred earlier. Officer A received information on the whereabouts of a vehicle that had been used in the robbery. He and Officer A set up surveillance of the vehicle at that location. The robbery suspects entered the vehicle and began driving it, Officer B, Officer A and other units followed the vehicle. The vehicle drove southbound on the service drive of King Drive. At some point he observed Subject 1 point a weapon in their direction. Subject 1 continued to drive the vehicle in reverse to make good his escape. The officers tried to use their vehicles to block Subject 1's vehicle in. Subject 1 crossed the service drive and lost control of the vehicle striking a fire hydrant. Then Subject 2 exited the vehicle and fled on foot.

Officer A and Officer B exited their squad car and approached Subject 1 while he was still inside the vehicle. Officer A stood near the rear of the vehicle while Officer B approached the driver's side door.

Subject 1 raised a gun in Officer B's direction. He and Officer A fired at Subject 1. Subject 1 placed the vehicle in reverse. Officer A and Officer C fired into the vehicle being driven by Subject 1. Officer B stated that an ambulance was called and the crime scene was preserved.

On 30 June 2011, the R/I obtained an audio interview from Officer C. He stated that on 8 November 2008, he was assigned to the Gang Team Unit and was working third watch with Officer E. He stated that Officer A had learned the whereabouts of a vehicle that had been used in the commission of a robbery. Officer A set up surveillance of that vehicle at 4316 S. King Drive. Officer A observed the vehicle and approached it. Officer A saw that some of the proceeds from the robbery were still inside.

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Officer C and other units watched as two offenders entered the vehicle and drove away. He and other units followed the vehicle to the service drive of King Drive. Subject 1 displayed a hand gun and drove eastbound over the parkway to the parkway across the street. Then Subject 1 drove the vehicle northbound until it struck a fire hydrant.

The officers tried to curb Subject 1's vehicle. Subject 1 continued to attempt to flee. Officer B approached Subject 1's driver's side door and tried to open it. Subject 1 displayed a hand gun. Officer C stated that he did not fire in Subject 1's direction because Officer B was standing in between him and Subject 1 and he could not get a clear shot. Subject 1 tried to place his vehicle in reverse while Officer C and Officer A were still standing at the rear of Subject 1's vehicle. Officer C and Officer A fired their weapons in Subject 1's direction, into his vehicle because they feared for their lives.

On 12 July 2011, the R/I obtained an audio interview from Officer E. He stated that on 8 November 2008 he was assigned to the 002nd District's Gang Crimes Unit 311 and was working third watch with Officer C. He stated that Officer A had received information concerning a robbery incident. Officer A had learned the whereabouts of a white SUV that had been used in the robbery. Officer A set up surveillance of that white SUV.

The robbery suspects entered the white SUV and drove away. He and other units followed this vehicle. The officers attempted to curb white SUV. The white SUV drove southbound on the service drive of King Drive. Officer E observed Subject 1 point/display a weapon in their direction. Subject 1 continued to drive the vehicle across King Drive's service drive and struck a fire hydrant. Then, Subject 1 made a U-turn and fled north on the King Drive's service drive.

Officer B exited his squad car and approached the white SUV on foot. Someone yelled "gun." Officer B fired his weapon. Officer A and Officer C were standing in between Officer E's vehicle and the white SUV. This prevented him from having a clear shot at Subject 1, who was still seated in the white SUV. He stated that Subject 1 was pulled from the vehicle and the crime scene was preserved.

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CONCLUSION:

The investigation found that Officers A, B, and C acted in compliance with the Chicago Police Department's policy on use of force. According to the Chicago Police Department's General Order No. 02-08-3, 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 force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.

The officer's actions were in accordance with the requirements spelled out above. By all accounts, Subject 1 posed great bodily harm when he pointed a semi-automatic handgun at Officer B and Officer D. It was also established that Subject 1 used his vehicle as a weapon to cause serious bodily harm and possible death to the officers. All of the officers and sergeants statements were consistent in their accounts of the incident. The offender, Subject 2, corroborated the officers' and sergeants' statements that Subject 1 pointed his weapon at the police officers. Thus, Officers A and B and Officer C were acting under the reasonable belief that Subject 1 was going to shoot and/or try to run them over with his car; and without other feasible methods of prevention available, they were justified in using deadly force "to prevent death or great bodily harm to the sworn member of to another person.