

INVESTIGATION

NUMBER: Log #1022243/U# 08-48

OFFICER INVOLVED #1: "Officer A" (Chicago Police Officer); Male/White; 26 years old; On-Duty; Civilian Dress; Year of Appointment – 2005

OFFICER'S INJURIES: None Reported

OFFICER INVOLVED #2: "Officer B" (Chicago Police Officer); Male/White; 32 years old; On-Duty; Civilian Dress; Year of Appointment – 2001 (DID NOT DISCHARGE)

OFFICER'S INJURIES: Gun Shot Wound to Right Shoulder

OFFICER INVOLVED #3: "Officer C" (Chicago Police Officer); Male/White; 26 years old; On-Duty; In Uniform; Year of Appointment – 2006 (DID NOT DISCHARGE)

OFFICER'S INJURIES: None Reported

OFFICER INVOLVED #4: "Officer D" (Chicago Police Department Probationary Officer); Male/Hispanic; 34years old; On-Duty; In Uniform; Year of Appointment – 2007 (DID NOT DISCHARGE)

OFFICER'S INJURIES: None Reported

INVOLVED SUBJECT: "Subject 1"; Male/Hispanic; 18 years old

SUBJECT'S INJURIES: One gunshot wound (lodged) to the right knee (Non Fatal)

INITIAL INCIDENT: Victim/Subject observed with weapon in hand

DATE/TIME OF INCIDENT: 04 December 2008, at 2211 hours

LOCATION: 3202 West Belden
Beat 1413

SUMMARY OF INCIDENT:

On 04 December 2008, at 2210 hours, while on routine patrol, Officer A and Officer B, who were working Beat 1469B observed a male Hispanic subject, who Officer A knew to be Subject 1, an Imperial Gangster running from the territory of Orchestra Albany, a rival gang. Officer A turned onto Belden Avenue in an attempt to conduct a field interview of Subject 1 and observed a handgun in Subject 1's right hand. Officer A stopped the vehicle and Officer A and Officer B exited the vehicle and announced their office. Subject 1 fired his weapon two (2) times at the officers and struck Officer B on the shoulder. Officer B fell to the ground. Officer A drew his weapon and fired at Subject 1 one (1) time.¹ Subject 1 fled on foot and Officer A pursued him. Officer C and Officer D, who were assigned to Beat 1406H, were in the area and observed Subject 1 shoot Officer B.² Officer C exited his vehicle and joined Officer A in the foot pursuit of Subject 1, while Officer D followed Subject 1 via vehicle. Subject 1 ran northbound through the alley west of Kedzie Avenue and westbound in the alley south of Fullerton Avenue. At Sawyer Avenue, Subject 1 ran across the street to the parkway. At this point, Officer A and Officer C and Officer D were in the street with parked cars separating them from Subject 1. The officers repeatedly ordered Subject 1 to drop his weapon, which was still in his hand. Subject 1 pointed the gun at the officers at which time Officer A fired his weapon two (2) times, striking Subject 1 once.³ Subject 1 fell to the ground and the officers could not see the gun. When the officers attempted to place Subject 1 into custody, he refused to show his hands and resisted their attempts to handcuff him. A struggle ensued and Subject 1 was eventually placed in custody.⁴ The officers observed Subject 1's weapon (Inter Arms .380 caliber semiautomatic pistol) on the parkway. The Office of Emergency Management and Communication (OEMC) was notified of shots fired and medical assistance was requested.

INVESTIGATION:

¹ The location of incident is 3202 West Belden.

² At the time of this incident, Officer D was a Probationary Police Officer (PPO). For the purpose of this report any reference to Officer D will be to his status at the time of the incident.

³ The location of incident is 2350 North Sawyer.

⁴ During the struggle, Officer D sustained a minor injury to his hand.

On 05 December 2008, a Roundtable panel was conducted regarding an officer involved shooting. The following five (5) witnesses appeared: (Atts. 4, 5).

Officer C related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Officer C and Officer D, who were working Beat 1406H were driving on Kedzie when they observed a tactical unit (now identified as Officer A and Officer B) performing a stop on Belden Avenue. Officer C observed Subject 1 shoot at Officer A and Officer B. Officer C further observed Officer A return fire once. Officer C exited his vehicle to assist Officer A and Officer B. Subject 1 fled on foot and Officer A and Officer C gave chase. Officer C announced his office and ordered Subject 1 to stop. Subject 1, who still had his weapon in his hand failed to comply and continued running. Subject 1 ran through alleys onto Sawyer Avenue. Subject 1 pointed his gun at Officer A and Officer C. Officer A fired his weapon one time and Subject 1 fell to the ground. Officer C could not see Subject 1's weapon. Officer C reported that Subject 1 struggled with the officers when they initially attempted to place him into custody, but that they (the officers) were able to place him (Subject 1) into custody.

Officer D related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Officer D and his partner, Officer C observed Officer A and Officer B performing a stop on Belden Avenue. Officer D observed Subject 1 fire two (2) rounds at Officer A and Officer B before he fled the area on foot. Officer D reported that he observed Officer B turn when Subject 1 fired at Officer A and Officer B and assumed that Officer B had been shot. Officer C exited the vehicle to assist Officer A. Officer D initially exited the vehicle to assist but returned to the vehicle and pursued Subject 1. Subject 1, who had his weapon in his hand, ran through alleys to Sawyer Avenue. Subject 1 stopped at the mouth of the alley on Sawyer and Officer D pulled the vehicle next to him. Officer D pointed his weapon at Subject 1, who began running again. Officer D exited the vehicle and joined Officer A and Officer C in the foot pursuit of Subject 1. Parked vehicles prevented Officer D from having a clear shot at Subject 1. Officer D observed Subject 1 turn towards Officer A with weapon in hand. Officer A fired his weapon and Subject 1 fell to the ground. Officer D could not see Subject 1's

weapon. Officer D reported that Subject 1 resisted the attempts of the officers to place him in custody. Officer D reported that he administered a strike to Subject 1 while attempted to place him in custody because he did didn't know if Subject 1 still had the weapon. Subject 1 was eventually placed into custody.

CPD Detective 1 related that he responded to Illinois Masonic Hospital to interview Officer B, who sustained a gunshot wound to the right shoulder that broke his clavicle with the bullet lodged in his shoulder. Officer B, who reported that he was in civilian dress wearing a black outer vest with his Chicago Police Department (CPD) star hanging around his neck was the passenger in an unmarked vehicle driven by his partner Officer A. Officer A and Officer B were driving southbound on Kedzie Avenue when they observed a male Hispanic subject (Subject 1) run westbound on Kedzie Avenue onto Belden Avenue. Officer A turned onto Belden Avenue to conduct a filed interview with Subject 1. Officer B exited the vehicle and Subject 1 turned towards him with a gun. Officer A yelled at Subject 1 to stop, but Subject 1 fired his weapon two (2) or three (3) times at Officer A and Officer B. The second shot struck Officer B. Subject 1 fled and Officer A pursued him. Officer B never removed his weapon from his holster and it was recovered fully loaded.

CPD Detective 2 related that he responded to Illinois Masonic Hospital to interview Subject 1 who sustained a gunshot wound to the right knee with a bullet lodged in the kneecap. Subject 1, a self-admitted Imperial Gangster was walking down the street when he saw the police. Subject 1 related that he fled because he had a gun that he obtained that afternoon for two (2) bags of crack cocaine and was currently on parole. Subject 1 fired at the officers who followed him in an attempt to "scare" them. Subject 1 apologized to CPD Detective 2 for shooting Officer B and reiterated that he was not trying to hit the officers just "scare" them. Subject 1 fled and was later shot by the police. Subject 1 was unable to elaborate on how he was shot. The interview was then terminated because Subject 1 was being taken to surgery.

Officer A related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Officer A, who was assigned to Beat 1469 B with Officer B, observed a male Hispanic who Officer A knew to be Subject 1, an Imperial Gangster, running across Kedzie Avenue. Officer A pulled next to Subject 1, who was wearing a black jacket with fur on it and observed a black firearm in his hand. Officer A and Officer B exited the vehicle and announced their offices. Subject 1 fired twice at the officers and Officer B was struck once. Officer A fired once at Subject 1 who fled. Officer A pursued Subject 1. A uniformed unit (Officer C and Officer D) assisted in the pursuit of Subject 1 through the alleys to Sawyer Avenue. At the location of Sawyer Avenue, the officers stood on one side of parked cars and Subject 1 was on the grassy area on the other side. Subject 1 raised his gun at Officer A who fired at him twice. Subject 1 fell to the ground and the officers instructed him (Subject 1) to show his hands. Subject 1 yelled “fuck you” to the officers and resisted their attempts to place him in handcuffs. The officers struggled with Subject 1 but were eventually able to place him (Subject 1) in custody.

CPD Detective 3 related to the Roundtable panel that Subject 1 has two (2) previous arrests for Unlawful Use of a Weapon and is currently on juvenile parole as a result of one of those arrests. Prior to Officer A and Officer B encountering Subject 1 calls were placed to OEMC reporting shots fired on the 3100 block of West Lyndale. One of the calls provided the description of a person wearing a black jacket with fur trim on the hood. (Atts. 4, 5).

The related **Department Reports**, including the report of Acting Assistant Deputy Superintendent A, Office of the First Deputy Superintendent dated 05 December 2008, Arrest Report of Subject 1 (CB1743321) General Offense Case and Supplementary Reports HP 717175 (Aggravated Battery to a Police Officer Report). Officer A fired his weapon on two (2) occasions. The initial discharge was after Subject 1 not only refused to drop his weapon when so ordered, but then pointed his weapon at officers, and struck Officer B. The second discharge occurred after a foot pursuit following Officer

B's being shot when Subject 1 again refused to drop his weapon and then pointed it at Officer A. (Atts. 7, 16,-18, 46, 47)

Tactical Response Reports (TRRs) and Officers' Battery Reports (OBRs), submitted by Officer A and Officer B provide accounts of the incident which are consistent with the Summary of Incident.⁵ Tactical Response Reports and Officers' Battery Reports, submitted by Officer C and Officer D provide accounts of the incident which are consistent with the Summary of Incident. Officer C's TRR report indicates that in response to Subject 1's fleeing after shooting at the officers, striking Officer B, Officer C used take/down, emergency handcuffing, and closed hand strike/punch.⁶ Officer D also reported that he used take/down, emergency handcuffing, and closed hand strike/punch on Subject 1 after his attack on the officers and still presenting an imminent threat. (Atts. 8 - 5,).

The **Chicago Fire Department (CFD) Ambulance Record** of Subject 1 (which identified him as [Subject 1 with a different last name]) indicates that he had a gunshot wound to his right knee (entrance with no exit). He stated that he could not move his leg. He also complained of shortness of breath and feeling 'faint'. No other gunshot wound(s) was found. (Att. 65)

The **Chicago Fire Department (CFD) Ambulance Record** of Officer B indicates that he was found standing and alert. He had a gunshot wound to the mid right clavicle (collarbone) area with no exit noted. He was given Advanced Life Support care and remained alert during transport to the hospital. (Att. 64)

The **Hospital Medical Reports** of Subject 1 indicate that Subject 1 was received at Illinois Masonic Medical Center on 04 December 2008 via ambulance. Subject 1

⁵ The General Offense Case and Supplementary Reports for HP 662539 (Aggravated Battery: Handgun), HP643-577(Aggravated Battery: Knife) which were referenced in HP 717175 were obtained.

⁶ In his Round Table account and subsequent statement at the IPRA, Officer C did not indicate that he used a closed hand strike/punch. No other reports indicate that Officer C struck Subject 1.

was diagnosed with a gun shot wound (GSW) to the right knee with a patella fracture, concussion, and left, peri-orbital ecchymosis. Subject 1's toxicology results indicated that he had Cannabinoids and Opiates in his system. CT Scans of the head and cervical spine proved to be negative for fracture. Subject 1 was discharged on 08 December 2008 from Illinois Masonic Medical Center and transported to Cermak Hospital. (Att. 43).

The **Office of Emergency Management and Communications (OEMC)** Recording(s) of relevant transmissions made by both citizens and Department Personnel and related Event Queries provide information consistent with the Summary of Incident including the reporting of shots fired by the police and ambulance request. (Atts. 18, 57, 58, 59).

The **Crime Scene Processing Report, and Evidence Technician (ET) Photographs** depict the location of the incident; recovered evidence; and Officer B and Subject 1 while they were both being treated at Illinois Masonic Medical Center. Officer A's weapon, a 9MM Sig Sauer 9mm, model P229, was inventoried under #11520523. Subject 1's weapon, an Inter Arms .380 caliber semiautomatic pistol was inventoried under #11520523. (Atts. 24,25).

A report from the **Illinois State Police, Division of Forensic Services** dated 24 December 2008, indicated that Exhibit 7 (GSR Evidence Collection Kit of Subject 1) Inventory 11520512 indicates that Subject 1 may have discharged a firearm, may have been in the environment of a discharged firearm, may have contacted a PGSR related item with the right hand or received particles from an environmental source. (Att. 27).

A report from the **Illinois State Police, Division of Forensic Services** dated 13 January 2009, indicated that Exhibit 22 (an Inter Arms .380 caliber semiautomatic pistol) Inventory 11520523 revealed no latent impressions suitable for comparison. (Att. 39).

A report from the **Illinois State Police, Division of Forensic Services** dated 05 February 2009, indicated that Exhibit 18 (Officer A's weapon) was examined, test fired, and found to be in firing condition. (Att. 37).

A report from the **Illinois State Police, Division of Forensic Services** dated 05 February 2009, indicated that Exhibit 33 (Inter Arms .380 caliber semiautomatic pistol) was found to be in firing condition. In addition, Exhibit 12, one (1) Winchester. 380 auto cartridge case was compared in the IBIS data base, however no identification was made. (Att. 37).

A report from the **Illinois State Police, Division of Forensic Services** dated 06 August 2009, indicated that no DNA profile was identified from the swabs of the Inter Arms .380 caliber semiautomatic pistol or the hat/ski mask. (Att. 38).

A report from the **Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives Nation Tracing Center** indicates that Inter Arms .380 caliber semiautomatic pistol Serial Number A01606 was purchased by [Name Withheld] on 29 January 1998 from Paul's Guns and Ammo, Shepardsville, Kentucky. (Att. 60).

In his initial authenticated interview with the IPRA on 05 December 2008, **Subject 1** related that he was walking on Belden Avenue near Kedzie and Sawyer Avenues when an unmarked squad car pulled along side of him. Subject 1 ran. The driver officer (Officer A) yelled "Stop running, I'm going to shoot you" and that he (Officer A) was "going to kill him." Subject 1 stated that he shot at the officer and continued to run "into an alley and into another alley" and onto Sawyer Avenue. Once Subject 1 reached Sawyer Avenue, he was tired and stopped running. Subject 1 stated that he dropped the gun and held his hands in the air above his head. (Att. 6)

Attempts to contact Subject 1 to obtain additional information relative to this investigation were met with negative results.⁷

In a statement with the IPRA on 02 March 2011, **Witness Officer C** provided an account of the incident consistent with the Summary of Incident, related Department Reports and account he provided to the Roundtable panel. Officer C related that that after he observed Subject 1 fire the shot which struck Officer B, at the location initial location, he drew his weapon. Officer C described Subject 1's actions of knocking down garbage cans as he ran which he believed was an attempt to slow the officers pursuing them on foot. Officer C observed Subject 1 point his weapon at Officer A at the second location. Officer C did not fire his weapon because he did not have a clear view of Subject 1. Officer C described the weapon carried by Subject 1 as a black or blue steel semiautomatic weapon. Officer C related that he did not point his weapon and/or fire his weapon during this incident. (Att. 48).

In a statement with the IPRA on 11 April 2011, **Witness Officer D** provided an account of the incident consistent with the Summary of Incident, related Department Reports and account he provided to the Roundtable panel. Officer D related that he observed Subject 1 fire two (2) shots at the initial location. Officer D observed Officer B jerk and fall to the ground. Officer D was not sure if Officer B was struck. Officer D further related that Officer A fired one shot prior to pursuing Subject 1 on foot. Officer D followed Subject 1 with the car and reached the location of the alley on Sawyer Avenue south of Fullerton Avenue first. Officer D, who was still in the vehicle instructed Subject 1 to drop his weapon and he did not comply. Subject 1 fled on foot at which time Officer D unholstered his weapon, exited the vehicle and gave chase. Officer D and Officer A crossed to the west side of the street while Officer C remained on the east side of the street. Subject 1 stopped momentarily, still holding the weapon in his hand. Officer D ordered Subject 1 several times to drop the weapon. Subject 1 took off running again. Officer D exited the vehicle and joined Officer A and Officer C in pursuing Subject 1 on

⁷ Attorney A contacted IPRA on behalf of his client, Subject 1 and stated that Subject 1 would not be providing a statement to IPRA. (Att. 31).

foot. As Officer D attempted to get a clear shot at Subject 1, Subject 1 turned around and began to raise his weapon toward Officer A. Officer A fired twice, striking Subject 1 who fell to the ground on his stomach. Officer D could not see Subject 1's weapon so he began to giving verbal commands to release the weapon. Subject 1 responded by not complying and directing profanity at Officer D. Officer D struck Subject 1 multiple times with a closed fist to his face until he complied with the verbal commands. The officers placed Subject 1 into custody, and reported that shots had been fired and that an ambulance was needed. (Att. 62)

In a statement with the IPRA on 30 March 2011, **Witness Officer B** related on the date of this incident he and his partner, Officer A were assigned to the 014th District gang team, when they attempted to conduct a field stop of Subject 1. Officer B, who was the passenger officer, exited the vehicle and Subject 1 fired a weapon at him. Officer B was struck in the right clavicle and fell to the ground. Officer B sought cover behind the squad car. Officer B related that he attempted to stay calm and called for an ambulance. Officer B related that he was familiar with the area; the location of the street stop; and Subject 1, a known member of the Imperial Gangsters, from his experience as a patrol, gang and tactical officer in the 014th District. Officer B related that he never had an opportunity to draw his weapon. Officer B described the weapon Subject 1 had as a dark colored .380 semi-automatic weapon. Officer B related as a result of being shot his clavicle was shattered and he was admitted to Illinois Masonic Medical Center for three (3) days for treatment of his injury. (Att. 51).

In a statement with the IPRA on 30 March 2011, **Involved Officer A** provided an account of the incident consistent with the Summary of Incident, related Department Reports and account he provided to the Roundtable panel. Officer A and Officer B were traveling southbound on Kedzie when a he observed a male sprinting down the middle of the street. As the male passed him, Officer A, who was the driver officer, recognized the male to be Subject 1, an Imperial Gangster who had been involved in a shooting from a month prior. Officer A related that Subject 1, an Imperial Gangster was running from rival gang (Orchestra Albany) territory as Kedzie is the dividing line between the

territories of the Imperial Gangsters and Orchestra Albany. Officer A further related that Subject 1's running from rival gang territory and the fact that the weather was extremely cold seemed strange. Officer A followed Subject 1, who kept looking at Officer A and Officer B as he ran. Officer A stopped the vehicle and exited. Officer B identified his office and it was at that time Officer A observed a weapon in Subject 1's hand.⁸ Officer A yelled gun as Subject 1 began shooting. Subject 1 fired two (2) shots and Officer B was struck. Officer A drew his weapon and returned fire, one (1) shot in defense of Officer B and himself.⁹ Subject 1 fled on foot down Belden Avenue. Officer A observed Subject 1 throw a mask into the grass as he ran.¹⁰ At this point, Officer A observed Officer C exit the squad car and join in the foot pursuit of Subject 1. Officer D remained in the car and followed Subject 1. Subject 1 began going northbound in the alley between Sawyer and Kedzie Avenues. As Subject 1 ran he threw garbage cans into the roadway to block the officers and squad car. The officers repeatedly ordered Subject 1 to stop and put the gun down but Subject 1 did not comply. Subject 1 went westbound to Sawyer Avenue where he went northbound and he approached Fullerton. At this point, Subject 1 turned, with his weapon raised in Officer A's direction. At that point, in fear for his safety, Officer A fired two (2) shots. Subject 1 fell to the ground, face down and hands under his chest. The officers instructed Subject 1 to get rid of the gun and he (Subject 1) replied "fuck you." Officer A and Officer C and Officer D approached Subject 1. Officer D lifted Subject 1 to his feet at which time Officer C began yelling "Tony, the gun, gun, gun." At that time Officer D administered strikes to Subject 1 until he released his hold of the weapon at which time Subject 1 was placed in handcuffs. OEMC was notified of the shots fired and an ambulance requested.

Officer A related that he fired three (3) shots total; one (1) at the location of 3202 West Belden and two (2) at the location of 2350 North Sawyer Avenue. Officer A stated that prior to firing the two rounds at the location of 2350 North Sawyer, he ensured Officer C and Officer D were not in the line of fire. Officer A, who estimated that he was ten to

⁸ Officer A described Subject 1's weapon as a black .380 semi automatic.

⁹ Officer A discharged as his primary duty weapon, a Sig Sauer P229 9 millimeter, which registered in the State of Illinois, he was qualified to carry and in an authorized holster.

¹⁰ Officer A added Subject 1 was not wearing the mask.

fifteen (10-15) feet from Subject 1 when he fired, related that when he fired the two (2) rounds at Subject 1, he used the sights and aimed for the center mass of Subject 1. Officer A related that one (1) of the shots he fired struck Subject 1 in the right knee cap. (Att. 54).

CONCLUSION AND FINDING:

This 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. 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 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 actions of Officer A were in accordance with the requirements of the Department's Use of Deadly Force policy. Officer A's reactions were solely based on the actions of Subject 1. Officer A and Officer B attempted to conduct a field interview at the location of 3206 West Belden Avenue with Subject 1 who pointed a weapon at Officer A and Officer B and fired two (2) shots - one of which struck Officer B. Officer A returned fire. Subject 1 fled on foot and Officer A and Officer C, and Officer D gave chase to the location 2350 North Sawyer Avenue, where Subject 1 again pointed a weapon in the direction of Officer A, Officer C and Officer D. Officer A was reasonably in fear for his and his fellow officers' lives when Subject 1 pointed a weapon at them.