

**Independent Police Review Authority**

Log # 1022559 - U# 08-051

**INVESTIGATION**

**NUMBER:** Log # 1022559/U# 08-51

**OFFICER #1**

**INVOLVED:** “Officer A” (Chicago Police Sergeant); Male/White; 50 years old;  
On-Duty; In Civilian Dress; Year of Appointment – 1996

**OFFICER’S  
INJURIES:**

Gunshot damage to the ballistic vest and on leather handcuff case.  
Transported to Little Company of Mary Hospital.

**SUBJECT:**

“Subject 1”; Male/Hispanic; 23 years old

**SUBJECT’S  
INJURIES:**

Gunshot wound to the back by the shoulder blade.  
Transported to Christ Hospital.

**INITIAL  
INCIDENT:**

Shots Fired at Police (Officer Hit)  
Shots Fired by Police (Offender Hit)

**DATE/TIME  
OF INCIDENT:**

18 December 2008, at 2034 hours

**LOCATION:**

13448 S. Burley Avenue – (sidewalk) - Beat 433

## **Independent Police Review Authority**

Log # 1022559 - U# 08-051

### **SUMMARY OF INCIDENT:**

On 18 December 2008, at approximately 2034 hours, Officer A, responded to a call of a suspicious person walking in and out of gangways on the 13400 block of Burley Avenue, Chicago, Illinois. As Officer A approached 13446 S. Burley Avenue, he observed an individual male who fit the description of the suspicious person call. The subject was walking southbound on the sidewalk of the west side of the street attempting to flee the area. As Officer A exited his vehicle he announced his office and asked the person to stop. At that point, the subject then turned and fired a handgun at Officer A. A round fired by the offender, now known as Subject 1, struck Officer A about the waist and lower torso area. The round struck part of the ballistic vest which ricocheted onto his handcuff case. The round finally came to rest on the driver's floor board. Officer A used his distance and shielding, taking cover and positioning himself behind a parked vehicle while being fired upon. Officer A announced his office once again and returned fire striking Subject 1. Subject 1, while on the ground after being shot, did not let go of his weapon and continued to point his weapon at Officer A. Subject 1 put his weapon down after realizing his weapon was in slide lock and empty. Subject 1 was placed into custody and ambulances were called for Officer A and Subject 1. Officer A's vehicle was struck multiple times.

The crime scene was protected by responding units, and a canvass for witnesses was conducted. Eleven expended casings and one live round were recovered from the scene. Subject 1's gun was recovered in slide lock. Officer A was transported to Little Company of Mary Hospital for observation, where he was treated and released. Subject 1 was transported to Christ Hospital.

Subject 1 was interviewed by detectives at Christ Hospital and he related that he believed Officer A was a Spanish Cobra street gang member. Subject 1 related that he continued to fire upon Officer A even after announcing his office. An Operation Just Cause was initiated against the Latin Kings gang. (Attachments # 4,5).

## **Independent Police Review Authority**

Log # 1022559 - U# 08-051

### **SUMMARY OF INCIDENT**

#### **ROUND TABLE REPORT:**

**Witness 1** related that she was in her home when her boyfriend called her saying he was outside in the van. Witness 1 related that she sat in the van with her boyfriend talking and showing him pictures of their baby. As they sat in the van, Witness 1 observed an unmarked squad car drive past them three times. Witness 1 recognized the green license plate with the letter "M" knowing it was an unmarked squad car. Witness 1 related that the unmarked squad car stopped three car lengths ahead of the van. Witness 1 observed Officer A exit the driver's side of the squad car and she heard him say, "Hey you." Witness 1 related that she then saw Subject 1 fire a gun, a couple of times at Officer A, who ducked down. Witness 1 related that she observed Officer A pull his gun from its holster, then stood up and fired his gun at Subject 1. Witness 1 related that once she did not hear anymore gunshots she exited the van and ran to her house. As Witness 1 was running to her house she heard, "Don't move! I'll blow your fucking head off!"

**CPD Detective 1**, related that he conducted a canvass at the location of incident. During the canvass he spoke to witness, Witness 2. Witness 2 related to Detective Sutherland that he was in his apartment when he heard two gunshots that sounded close by. Witness 2 looked out the window and saw Officer A crouched behind a parked car, firing his weapon five or six times. Witness 2 related that his roof blocks part of his view of the incident so he could not see anyone else. Witness 2 related that he heard Officer A yell, "Get down! Get down!" Witness 2 related that he walked downstairs and observed several police cars arrive on the scene.

**Officer B**, related that he was conducting a narcotics surveillance at 13600 S. Burley Avenue, when he heard gunshots nearby. Officer B related that his partner told him that Officer A was involved in a shooting at 13400 S. Burley. Officer B then drove to Officer A's location. Officer B related that he observed Subject 1 on the ground with Officer A standing near him with his gun drawn. Officer B heard Subject 1 say, "Please don't kill me." Officer B related that he handcuffed Subject 1 and called for EMS. Officer B related that Subject 1 stated out loud, "Dude that was chasing me has the same car." Officer B related that he also observed the butt of a handgun sticking out of the snow near where Subject 1 was laying on the ground.

**Officer A** related that he monitored a call of a suspicious person at 134XX S. Burley. He arrived at that location and drove around the block several times. Officer A related that as he drove north on Burley Avenue he observed Subject 1 on the west side of the street. Officer A related since Subject 1 fit the description of the suspicious person, he stopped his squad car and opened the door to exit. As he exited the car he yelled to Subject 1, "Police stop!" at which time, Subject 1 turned around and fired a weapon at him (Officer A), As Officer A exited the squad car, he was struck on the handcuff case and vest. Officer A related that he immediately took cover behind a parked car and removed his handgun from his holster. Officer A related that as Subject 1 ran south he paralleled him while at the same time using the parked cars as cover. As Subject 1 ran, he continued to fire his gun several times at Officer A. Officer A returned fire over the parked cars striking Subject 1, who fell to the ground. Officer A related that Subject 1 was lying on the ground on his back, with his upper body leaning on his elbows. Subject 1 held his gun still pointed at Officer A as Officer A approached. Officer A ordered Subject 1 to drop his

## Independent Police Review Authority

Log # 1022559 - U# 08-051

gun. Officer A heard Subject 1 say, “No, no, no” as he approached him, Officer A performed a tactical reload. At which time, Subject 1 dropped his gun to the ground and Officer A swept the gun away from Subject 1 with his hand. Officer A related that he ordered Subject 1 to turn away from the gun and lie on his stomach. Subject 1 was then taken into custody.

**CPD Detective 2**, related that he responded to Christ Hospital where he spoke to Subject 1. Subject 1 related to him that he was sorry and asked him if he was the officer he had shot. Subject 1 explained that he was walking south on Burley Avenue when he observed a gray or silver car and believed it was a car owned by a rival gang member named “[Initial Withheld]” Subject 1 related that when he saw the driver get out of the car, he fired to shots at the driver. Subject 1 related that he then realized that the driver was actually a police officer. Subject 1 related that he was then shot by the officer. CPD Detective 2 related that Subject 1 related that he was carrying a .40 caliber semi-automatic handgun for protection and that he got it from “[Initial Withheld]” Subject 1 related that he was a member of the Latin Kings street gang but no longer associates with the street gang.

CPD Detective 2 related that Subject 1 sustained a through and through gunshot wound to his upper left shoulder blade which exited near his right shoulder. CPD Detective 2 related that Subject 1 was complaining of abdominal pain, which was unrelated to the gunshot wound. Subject 1 was kept in the hospital for observation.

The round table concluded at approximately 0239 hours. (Attachment # 5).

## Independent Police Review Authority

Log # 1022559 - U# 08-051

### INVESTIGATION:

In a **report** submitted by **IPRA Investigator A**, dated 19 December 2008, related that he responded to Christ Hospital on 18 December 2008, at approximately 2200 hours, in an attempt to obtain information of sustained injuries on Subject 1. IPRA Investigator A inquired on the condition of Subject 1 with Doctor A, who related that Subject 1 had been shot two times. Doctor A related one gunshot wound was discovered on Subject 1's upper right back was "superficial" because Subject 1 was lying on his back and when he turned over a bullet fell out. Doctor A related that a second gunshot wound was discovered on the upper left back of Subject 1 and no bullet was recovered. Doctor A related that the second gunshot wound might be a through and through. Doctor A related that Subject 1 related to him that he was experiencing extreme abdominal pain. Subject 1 related to IPRA Investigator A that he would cooperate and provide a statement at a later date.

IPRA Investigator A visited Subject 1 at Christ Hospital on 19 December 2008, at approximately 1030 hours, in an attempt to interview Subject 1. IPRA Investigator A spoke to Nurse A who informed him that Subject 1 was experiencing "tingling" on his upper extremities and pain on his legs. Nurse A related that she was unsure if Subject 1 was going to undergo surgery or not and could not provide a timeframe of Subject 1's release from the hospital. Subject 1 signed a medical release form and related that he will provide a statement at a later date. (Attachments # 6,7).

In a **report** submitted by **IPRA Investigator B**, dated 19 December 2008, at approximately 0806 hours, related that she called Christ Hospital to obtain the medical status of Subject 1. IPRA Investigator B spoke to Guard CPD Officer C who related that Subject 1 was in stable condition on the third floor, room ZPU, bed 10. (Attachment # 9).

In a written statement, victim/offender, **Subject 1**, dated 16 January 2009, related that on 18 December 2008, he was walking home. Subject 1 related that he was at 134<sup>th</sup> and Burley Avenue when he observed a gray colored car pass. Subject 1 recognized the car as being that of a "Dragon" gang member. Subject 1 related that he continued walking when he heard, "Hey come here." Subject 1 continued walking then he turned around and observed a subject standing at the back of the car which was in the middle of the street. Subject 1 believing it was a "Dragon" gang member reached for a gun in his waistband. As he reached for his gun, he observed the subject by the car pull his gun out. Subject 1 related that he turned around to run but he heard bullets go by his head. Subject 1 did not know how many shots were fired. Subject 1 related that he turned around to face the subject and fired his weapon. He had his finger on the trigger and held it and believes he fired at least five to six shots. Subject 1 related that he wanted to run but remembers lying on the ground and he blacked out. Subject 1 related that he did not know he had been shot. As he lay on the ground, he woke up and had blood in his mouth and he was face down. He could not feel his legs. Subject 1 related that he was shot in the right shoulder and he did not have surgery but might in the future. Subject 1 related that his legs are fine now. Subject 1 related that he did not hear the subject at any time say that he was a police officer or else he would not had fired his gun. Subject 1 related that he remembers when he laid on the ground his head was turned to the left he heard a voice say, "I'm a police officer, asshole" and was kicked

## Independent Police Review Authority

Log # 1022559 - U# 08-051

on his right side. Subject 1 related that he was put in an ambulance and taken to the hospital. Subject 1 related that when the incident occurred he did not see anyone else other than the subject. (Attachment # 41).

In a written statement, **Witness 1**, dated 18 December 2008, related that she was with her boyfriend, [Name Withheld] (nfl) sitting in his van parked in front of her house (134XX S. Burley Avenue). Witness 1 related that she was showing [Name Withheld] pictures of their newborn daughter and talking. Witness 1 related that she observed an unmarked squad car drive pass three times around the block then stop three car lengths from where the van was. Witness 1 observed the officer stopped in the middle of the street exit the squad car and yelled, "Hey you." Witness 1 observed that the officer was yelling at a male wearing a yellow hooded sweatshirt. Witness 1 did not see where this male came from and she did not see him until the officer yelled to him. Witness 1 related that immediately after the officer yelled to this male, the male turned towards the officer and shot at him four or five times. Witness 1 related that she heard gunshots and observed muzzle flashes coming from the males gun. Witness 1 related that the officer and the male were approximately 15 to 20 feet away from each other. Witness 1 related that the officer ducked behind a parked car and drew his weapon from his holster. After the male shot several times at the officer, the officer then stood up and shot two or three times at the male. Witness 1 related that the male ran and then turned towards the officer and shot several more times and the officer shot at the male two more times. Witness 1 observed the male fall to the ground at which time she exited the van and ran to her house. Witness 1 related that as she ran she heard the officer yell, "Don't reach for your gun!" Witness 1 related that went to her window on the [withheld] floor and watched as squad cars arrived on the scene. Witness 1 related that Detectives came and knocked on her door. Witness 1 described the officer as being a male white with grey hair in plainclothes driving a dark grey or black unmarked squad car and that he was alone. Witness 1 described the male as wearing a gold or yellow hooded sweatshirt, she could not describe the male any further or describe the gun. (Attachment # 22).

In a written statement, **Witness 2**, dated 18 January 2009, related that he was in his [withheld] floor apartment when he heard two shots outside and close to his house. Witness 2 related that he looked through his window and observed a male white plainclothes officer leaning on the front of a parked car in front of 134XX S. Burley Avenue. Witness 2 observed the officer's car parked in the middle of the street further down and the car had "M" plates. Witness 2 observed the officer aim and shoot five or six shots in the direction of his house. Witness 2 related that he could not see anyone else because his roof obstructs his view. Witness 2 related that he heard the officer yell, "get down, get down." Witness 2 related that he observed the officer walking towards his house with his arm out and holding his revolver. Witness 2 related that he ran downstairs and went to his front steps and observed the officer standing on the grass. He asked the officer if he was alright and the officer responded, "My stomach is hot" and feeling his stomach area and appeared dazed. Witness 2 related that many officers responded to the front of his home. Witness 2 related that he looked in front of his house and on the grass, he saw a person laying on the ground with officers around him. Witness 2 related that he could not see the person clearly or see what he was wearing, because he was approximately twenty to twenty five feet away. Witness 2 related that a Detective asked him if he would be available to talk later and he responded that he would be available. (Attachment # 43).

## **Independent Police Review Authority**

Log # 1022559 - U# 08-051

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 at police and shots fired by police, offender down and ambulance requested. (Attachments # 50, 51, 52, 65, 66, 67, 68).

A **Chicago Fire Department Ambulance** responded to a call of a gunshot victim. The report revealed that paramedics found the patient, Subject 1, awake and alert in care of Engine 97. Subject 1 complained that he was unable to move his legs and he was lying face down on the ground. Subject 1 was log rolled onto a long back board. Subject 1 complained of pain all over his body. The report revealed one gunshot wound to the upper right back (scapula), no exit wound noted and a small amount of blood on Subject 1's mouth. The report revealed no other obvious trauma noted. (Attachment # 25).

The **CPD-POD # 110**, located at 13358 S. Brandon Avenue, depicted emergency vehicles in the area with its emergency lights activated. The camera captured several subjects walking around the area but unable to clearly see who the subjects were. There is no video footage of the police involved shooting, just emergency vehicles responding to the location. (Attachment # 35).

The related **Department Reports**, which includes Case Report (RD # HP-740-826), Tactical Response Report and Officer's Battery Report, Injury on Duty Report, and Arrest Report, provide accounts of the incident are consistent with the summary of incident. Including the fact that Officer A being shot at and he returned fire striking Subject 1 who was then placed in custody and transported to Christ Hospital. Subject 1's weapon was also recovered. (Attachments # 10, 11, 12, 14, 59, 60, 61, 62, 63).

The **Detectives' Supplementary Report**, (RD# HP-740-826), reported that Subject 1's weapon was recovered from the scene and identified as a Springfield Armory Model Xp 40 .40 Caliber Semi-automatic Pistol 4 "Bbl Green plastic receiver and black colored slide. The report revealed that Detectives met with Subject 1 who stated that he believed [Initial Withheld] who drives a similar car and resembles the officer he shot at, was after him. Subject 1 related that [Initial Withheld] blames him for a double homicide that occurred at 103<sup>rd</sup> and Avenue M. The report reveals that Detectives inquired about firearm that Subject 1 used which was reported stolen by the Portage Indiana Police Department. Subject 1 related that he acquired the weapon from [Initial Withheld] and he was unaware it was stolen. Subject 1 related to the Detectives that the officer fired first and he shot at him twice and realized he was an officer then surrendered. Detectives then inquired of Subject 1 as to why was his weapon was recovered in slide lock, of which Subject 1 was unable to respond. (Attachments # 62, 63).

The **Independent Police Review Authority (IPRA)** conducted a canvass in the vicinity of 134XX to 134XX S. Burley Avenue and identified Witness 2 as a civilian witness. Witness 2 was not available at the time to provide a statement, but will do so at a later date. (Attachments # 8, 16, 17, 18).

## **Independent Police Review Authority**

Log # 1022559 - U# 08-051

The **Medical Records** from Christ Hospital Medical Center, dated 18 December 2008, revealed that Subject 1 was brought in by paramedics with a gunshot wound to the right upper back, a gunshot wound on the left upper back, pulmonary contusion, T 7 Spinosus, rib fracture and abdominal pains. Subject 1 was admitted for treatment. The report revealed Subject 1's left hand and right foot are handcuffed to the bed which limits the patient's mobility with police guard at bedside. Subject 1 was evaluated and physical therapy is needed for recovery. Subject 1 who was in police custody was released on 23 December 2008, at 0637 hours. (Attachment # 49).

The **Evidence Technician Photographs** taken on 18 December 2008, depict photos of Officer A at the 004<sup>th</sup> District Police Station. Identification photographs of Officer A, which depicts him in his vest, a police belt, handcuffs in their case and his weapon in a holster. A photograph of the lower edge of the bullet proof vest cover depicts a bullet hole, and a bullet hole is depicted at the bottom of Officer A's bullet proof vest and a bullet hole is depicted through Officer A's handcuff case. (Attachments # 29).

The **Evidence Technician Photographs** of Subject 1 were not taken on 18 December 2008, due to being treated in the emergency room and taken for tests. The Crime Scene Processing Report last line revealed Evidence Technician A, did not take any photographs of Subject 1. Evidence Technician A obtained a GSR Kit on Subject 1 and collected the clothing for evidence. (Attachment # 32).

The **Illinois State Police (ISP), Division of Forensic Services**, report, dated 27 January 2009, revealed primer gunshot residue (PGSR) test done on Subject 1 on his right and left hands. The report revealed that Subject 1 may have discharged a firearm with either hand. If he did discharge a firearm, then the particles were removed by activity, were not deposited, or were not detected by the procedure. (Attachments # 54, 55, 56, 57, 58, 64).

In a statement to IPRA, the accused, **Officer A**, related that he was working Beat 463 and the tactical sergeant in civilian dress. Officer A related that he was alone when he responded to a call of a suspicious person. Officer A's interview is consistent with the Summary of Incident Report. Officer A added in his statement that when Subject 1 spun to the ground, he was facing him and still attempting to shoot at him, and fire his gun. Officer A related that the gun was on slide lock and he told Subject 1 to drop the gun and asked him, "Why he shot at me?" Subject 1 responded that he thought I was someone else. Officer A related that he was shot at and his bullet proof vest was struck along with his handcuff case. Officer A related that he had no other option then to return fire being in fear of his life and striking the offender, Subject 1. (Attachment # 71).

## Independent Police Review Authority

Log # 1022559 - U# 08-051

### CONCLUSION AND FINDING:

This investigation found that, based on the preponderance of evidence, the use of deadly force by Officer A was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order No. 02-08-03, III: DEPARTMENT POLICY, A1 and A2, a,b,c.

- 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 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."

Officer A responded to a call of a suspicious person in the vicinity of 13400 block of Burley Avenue. Upon investigation of the vicinity, Officer A observed an individual that fit the description of the suspicious person. Officer A attempted to question this individual, Subject 1. Subject 1, the offender, fired upon Officer A striking him and for his own safety and to protect himself, Officer A returned fire striking Subject 1.

Subject 1 gave conflicting accounts regarding the discharge of his weapon at Officer A when he initially stated Officer A fired at him first and he returned fire. Subsequently, Subject 1 admitted to detectives that he in fact fired first at Officer A. Subject 1 added in his original interview that an unknown subject stated words to the effect, "I'm a cop, asshole," and then kicked him. Subject 1 further related once he was shot and fell to the ground, he blacked out. Subject 1 also gave conflicting statements about what occurred once he was shot and lying on the ground. Subject 1's account that he was verbally abused and physically abused by the unknown subject who he believed was the officer who shot him has no basis to conduct a follow up investigation. There were no independent witnesses to the alleged abuse and further Subject 1 did not immediately make any complaint although he had opportunity when questioned by the responding detectives and subsequently with the States Attorneys Office. Officer A's actions were in accordance with the requirements of the Department's Use of Deadly Force policy. Officer A was reasonably in fear for his life.