

INDEPENDENT POLICE REVIEW AUTHORITY

Log# 1027233/ U# 09-19

INVESTIGATION

NUMBER: LOG# 1027233 / U# 09-19

OFFICER INVOLVED#1: “Officer A” (Chicago Police Officer); Male/White; 34 years old; On-Duty; In Uniform; Year of Appointment – 2006

OFFICER’S INJURIES: None Reported

SUBJECT: “Subject 1”; Male/Black; 22 years old

SUBJECT INJURIES: Gunshot wound to head (Fatal)

INITIAL INCIDENT: Traffic violations

DATE/TIME OF INCIDENT: 11 June 2009 at 1828 Hours

LOCATION: Vicinity of 7007 S. Eggleston Avenue
Beat 732

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INVESTIGATION:

In the **Roundtable Report** Detective A summarized the incident. On 11 Jun 09, at approximately 1825 hours, Officer C and Officer D Beat #744 observed a vehicle, a 2001 Chrysler Sebring, traveling at a high rate of speed. The officers curbed the vehicle on the 7000 block of South Normal Street for traffic violations. When the officers exited their vehicle to approach the Sebring, the vehicle drove away. The officers entered their vehicle, radioed The Office of Emergency Communications (“OEMC”) and pursued the Sebring.

Officer C and Officer D curbed the Sebring at 7031 S. Eggleston and the unknown driver exited the vehicle and ran eastbound through a vacant lot. Officer D chased the driver on foot. The driver held his side as he ran and Officer D believed that he was armed with a firearm. Officer C was with the passenger, now known to be Subject 1, who was still seated in the Sebring. Officer C gave him verbal commands to show his hands. Shortly after the Sebring was stopped, Officer A and Officer B Beat #731 arrived on the scene. Subject 1 jumped into the driver’s side of the Sebring and exited out of the open driver’s side door.

Subject 1 ran northbound on the sidewalk of Eggleston St. with Officer A chasing on foot. Officer B pursued Subject 1 in the police Tahoe SUV and went through a vacant lot near 7031 S. Eggleston in an effort to obstruct Subject 1’s path. Officer A observed Subject 1 with a gun as he ran northbound on Eggleston. Subject 1 ran through the gangway at 7007 S. Eggleston and Officer A lost sight of him. When Officer A reached the gangway, he felt a sudden impact from a strike delivered by Subject 1. Officer A’s firearm discharged as he was knocked backwards from the force of the impact. Officer A radioed and reported that he fired shots. Officer C came to Officer A’s aide and observed Subject 1 lying on the ground.

Officer D reported to the Roundtable panel that he was working Beat #744 with Officer C. Officer D was driving when they observed a Chrysler Sebring driving at a high rate of speed. They curbed the vehicle in the vicinity of 7000 South Normal. Officer D related that when he and Officer C approached the vehicle, the vehicle fled. Officer D radioed OEMC and gave a description of the vehicle. Officer D related that they successfully stopped the vehicle at 7031 S. Eggleston. The driver exited the vehicle and fled, dropping his cell phone to the ground as he ran eastbound through a vacant lot. Officer D stated that he observed this subject holding his waistband and radioed OEMC with this information. Officer B, who arrived on the scene, assisted in the search for the driver of the vehicle. While searching for the driver at 7015 S. Eggleston, Officer D heard a gunshot.

Officer C related to the Roundtable panel that after the traffic stop, she remained with the vehicle and the passenger, now known as Subject 1. Officer C explained that she drew her weapon because she could not see Subject 1’s hands. She ordered Subject 1 to show his hands but Subject 1 continued to turn towards his left side. At this time Officer A and Officer B arrived on the scene. Officer C said that Subject 1 jumped into

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the driver side of the vehicle and exited out of the open driver's side door. Subject 1 ran onto the east sidewalk of Eggleston and ran north. Officer A ran after Subject 1 while Officer B drove into a vacant lot. Officer C grabbed the ignition keys out of the Sebring and got into her squad car. Officer C reversed the squad car and observed Subject 1 run into a gangway at 7007 S. Eggleston. Officer C exited the squad car and entered the gangway of 7007 S. Eggleston when she heard "shuffling" and "noises" coming from behind the building at this address. Officer C stated that a "second later" she heard one gunshot. When Officer C approached Officer A she saw Subject 1 lying on the ground with a gunshot wound to his head.

Officer B related to the Roundtable panel that he was working Beat #731 with Officer A. Officer B stated that they responded to assist Officer D and Officer C. Officer B was the driver of the Tahoe police vehicle. When Officer B arrived at 7031 S. Eggleston he observed Officer C with her weapon drawn and pointed at Subject 1 who was seated in a Chrysler Sebring. Officer B heard Officer C saying "let me see your hands." Subject 1 jumped into the driver's side of the vehicle and exited out the opened driver's side door. Subject 1 ran northbound on foot and Officer A pursued him on foot. Officer B pursued Subject 1 in the police vehicle. He drove through a vacant lot next to 7031 S. Eggleston, then went eastbound and into an alley, going northbound. Officer B related that he anticipated that Subject 1 would run out into the alley. Officer B heard over the radio that Officer D was searching for the driver of the Sebring, who Officer D said was possibly armed. Officer B assisted Officer D and at this time heard one gunshot.

Officer A related to the Roundtable panel, that when they when he and Officer B arrived at 7301 S. Eggleston he observed the Sebring with the drivers side door open and Officer C with her weapon drawn on the passenger, Subject 1. Subject 1 jumped out of the driver's side door and fled northbound on Eggleston. Officer A chased Subject 1 and observed Subject 1 with a black steel gun in his right hand. Officer A estimated that Subject 1 was five houses ahead of him when, at 7007 S. Eggleston, Subject 1 turned right and ran through a gangway. When Officer A approached 7007 S. Eggleston, he did not see Subject 1. Officer A entered the gangway and had his weapon drawn. At the corner in the gangway Subject 1 jumped out and lunged at Officer A. Officer A described what happened next as a "sudden impact" between him and Subject 1 in his chest area. Officer A stated that his gun simultaneously discharged as he fell backwards about two feet. Officer A could not recall if his finger was on the trigger but he did recall that both of his hands were on his weapon. Subject 1 fell to the ground with a gunshot wound to his head. (Att. 30)

In a statement with the IPRA on 12 Jun 09, **Witness 1** stated that he lives on the 7000 block of south Eggleston and was cleaning his porch when he observed a gray car on 70th St. He also observed a marked squad car with the flashing lights activated behind the gray car. Witness 1 observed the gray car turn onto Eggleston and continue to travel about half a block. One of the officers in the marked squad car honked the horn and over the loud speaker instructed the occupants of the gray car to pull over. The gray car stopped and the male black driver of the gray car jumped out of the car and ran. The black male driver ran east through a vacant lot. The two officers in the squad car, now

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known to be Officer C and Officer D, got out of the car. Officer D ran after the black male driver. Officer C pointed her gun at the passenger, Subject 1. Subject 1 moved to the driver's side of the car and out of the open driver's door and ran away. Officer C was holding her gun as she ran after Subject 1 who was outrunning her.

Witness 1 then observed Subject 1 run in his direction and into the gangway of 7007 S. Eggleston. A white male officer, Officer A, then ran past Officer C and into the gangway. Officer C stopped running and stood on the sidewalk in front of 7007 S. Eggleston. Witness 1 heard a gunshot about a minute after Officer A ran in the gangway. Shortly thereafter, several squad cars arrived on the scene and blocked off the street.

Witness 1 stated that the gangway Subject 1 and Officer A ran in leads to a dead end, there is no way to exit. Witness 1 further stated that if Subject 1 had been from the area, he would have known that the gangway he ran into was a dead end. Witness 1 was not a witness to the actual shooting and only saw the event leading up to the shooting. (Att. 5)

The **Original Case Incident Report**, the **TRR** and the **Officer's Battery Report** gave essentially a similar account of the incident as indicated in the Roundtable Summary. In addition, the reports indicated that when Officer A reached the rear of the building, Subject 1 charged into him, striking him. At that time, Officer A was knocked backwards and his firearm discharged one time. Subject 1 fell to the ground with a gunshot wound to the head. When Officer C arrived at the rear of the building, she found Subject 1 on the ground and Officer A radioing for help. (Atts. 16-18)

The **Crime Scene Processing Report** indicates that no weapons were discovered during the crime scene investigation. (Att#13)

The **Detective Case Supplementary Report** indicated that there were no witnesses to the police-involved shooting. There were witnesses who saw parts of the initial incident by the Sebring and also saw Subject 1 run into a gangway then subsequently heard one gunshot.

The **Detective Case Supplementary Report** also indicated that the registered owner of the gray Sebring, now known to be [Unnamed Female], was contacted. [Unnamed Female] told detectives that her boyfriend, [Unnamed Male], had dropped her off at work and drove off with his seven year old son. According to [Unnamed Female], she did not know what [Unnamed Male's] plans were after he dropped her off at work. Also, [Unnamed Female] had not seen or talked with [Unnamed Male] since he dropped her off at work. [Unnamed Female] provided contact information for [Unnamed Male].

The **Detective Case Supplementary** further indicated that Officer A related essentially the same as in the Roundtable summary adding that as he pursued Subject 1, he observed Subject 1 to be holding a dark object in his hand. Officer A related to the detectives that he believed this dark object was a weapon. Officer A had his weapon drawn as he entered the gangway at 7007 S. Eggleston and as he moved toward the rear

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of this address. While approaching the corner of the building, Subject 1, attempting to defeat arrest, charged and lunged at Officer A. Officer A was struck on his front and was knocked backward due to the sudden impact between him and Subject 1. At this time Officer A's weapon discharged, striking Subject 1 in the head. The detectives indicated that the rear yard of 7007 S. Eggleston is fenced in and there is no easy exit to the alley.

The Supplementary report summarizes interviews with Officer D, Officer C and Officer B who all provide essentially the same accounts to detectives as they did to the Roundtable panel. (Att. 74)

A **Canvass** of the vicinity of 7007 S. Eggleston was conducted and the only witness who provided an interview was Witness 1. There were no witnesses to the actual shooting. (Att. 9)

The **Chicago Fire Department Ambulance Report** indicated that when paramedics arrived on the scene of 7007 S. Eggleston Ave., they found Subject 1 with a gunshot wound to the top of his head and brain matter was observed on the top of the skull. Subject 1 was unresponsive but was breathing on his own. Subject 1 remained unresponsive and had spontaneous respirations entire time they were en route to the hospital. Subject 1 transported to Stroger Hospital without incident. (Att. 43)

The **Postmortem Examination** of Subject 1 was conducted on 15 June 2009 by Doctor A. One gunshot was identified on the left side of Subject 1's head, involving the skull and brain. The bullet entrance was determined to be the front left side of Subject 1's head and a medium caliber, copper jacketed, lead bullet was recovered in the soft tissues of the back left side of the scalp. The wound coursed from front to back. There was no evidence of close range firing.¹ The diagnosis was gunshot wound of the head. It was the opinion of Doctor A that Subject 1 died as a result of a gunshot to his head and the manner of death is homicide. (Att. #65)

The **PDT Transmissions** did not provide any additional information. (Att. 31)

A search for **In-Car Video** for both Beat #'s 744 and 731 was conducted, however, no in-car video footage was located. (Att. #41)

A report from the **Illinois State Police Division of Forensic Services**, dated 10 Aug 09, indicates that Officer A's weapon were examined, found to be in firing condition and test fired. One fired cartridge case recovered and one fired bullet recovered were found to have been fired from Officer A's weapon. Officer A's weapon is a Sig Arms model P226, 9mm semiautomatic pistol with a 16 round capacity. His weapon was found to have a total of 15 rounds when it was recovered. (Att. # 13, 63)

¹ In a phone conversation with Doctor B on 18 October 2012, The Medical Examiner's Office defines "close range" as close contact with the skin resulting in soot and stippling.

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A report from the **Illinois State Police Division of Forensic Services**, dated 10 Jul 09, indicates that Officer A's weapon, magazine, one live cartridge, and fourteen live cartridges, revealed no latent impressions suitable for comparison. (Att#64)

In a statement with the IPRA on 24 Aug 09, witness **Officer B** stated that he and his partner Officer A were in uniform and assigned to a marked Chevy Tahoe. While on routine patrol and at 71st and Stewart, Officer B and Officer A heard a radio transmission by Beat 744 indicating that they were in a motor vehicle pursuit. Beat 744 further indicated that they were traveling northbound on Normal. Beat 744 transmitted that they were traveling east down 70th Street and then south on Eggleston. Officer B then heard Beat 744 say that the driver "bailed" from the vehicle and was holding his side and he believed that the offender had a weapon on him. When Officer B and Officer A arrived where the vehicle stopped in the vicinity of 70th and Eggleston, Officer B observed Officer C next to the vehicle passenger side with a gun pointed at the occupant, now known to be Subject 1. Officer C ordered Subject 1 to show her his hands and not to move. Subject 1 began to make movements and motions when Officer A stated to Officer B that Subject 1 was going to run.

Officer A then exited the Tahoe as Subject 1 jumped out of the driver's side door and ran northbound on Eggleston. Officer B drove the Tahoe in the same direction of the foot pursuit and turned toward the east alley. Officer B lost sight of Officer A and when he emerged from the alley and onto a vacant lot, he observed Officer D in an adjacent vacant lot. Officer D had his weapon drawn and was searching the area. Officer B exited the vehicle with his weapon drawn and began searching for Officer A and Subject 1. As Officer D and Officer B stood next to each other, they heard what sounded like a gunshot. Immediately thereafter, Officer A's voice was heard over the air saying that shots had been fired by the police and an ambulance was needed. At that time, several officers ran in the direction of where Officer A was and Officer B followed. When Officer B reached the location of Officer A, he observed Subject 1 lying on the ground with blood on the pavement. Officer B was unable to determine where Subject 1 was shot. Officer B asked Officer A if he was alright and he responded that he was. Officer B then told Officer A to go to the front of the residence. Officer B related that it was daylight, clear and he did not hear any voices prior to hearing the gunshot. (Att. 71)

In a statement with the IPRA on 16 Jul 09, **Officer D** stated that he and Officer C observed a vehicle traveling northbound on Stewart at a high rate of speed. The officers activated the emergency lights and curbed the vehicle. As Officer D and Officer C approached the curbed vehicle it sped away. The vehicle continued to travel northbound on Stewart and then turned right on 70th Street and then south on Eggleston. The vehicle came to a stop at 7031 S. Eggleston and the driver got out after being told to stay in the vehicle. The driver dropped a cell phone when he got out of the vehicle and ran eastbound through a vacant lot. Officer D gave chase on foot, but lost sight of the offender and radioed for help because the offender was holding his waistband. Officer D began to look for the offender in each yard when he met Officer B in the alley. Officer D then heard a loud report that he believed to be a gunshot. Several officers ran in the direction of the gunfire. Officer D heard over the radio that the officer was not hurt and that the offender was in custody. Officer D and officers from a tactical team continued

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looking for the offender. Officer D stated that he did not go to the scene of the shooting. Officer D did not hear any voice prior to hearing the gunshot. (Att. 67)

In a statement with the IPRA on 13 Aug 09, **Officer C** gave in essence a similar account of the incident as indicated in Officer C's statement to the Roundtable panel. In addition, Officer C stated that after Officer D left the scene in foot pursuit of the driver, she approached the passenger side of the car with her gun out. Officer C ordered the passenger, now known to be Subject 1, to show her his hands. Subject 1 refused to comply with Officer C's commands to show her his hands as he continued to fumble with his hands. When Officer B and Officer A arrived on the scene Officer A exited the Tahoe. Officer B drove away to assist Officer D who was in pursuit of the offender driver. Officer C was still giving Subject 1 orders to show his hands when he rolled over to the driver's side of the vehicle. Subject 1 rolled out of the vehicle through the open driver's side door and ran. Subject 1 ran northbound on the sidewalk with Officer A in foot pursuit. Officer C entered her vehicle that was still running and observed through the rearview mirror Officer A pursuing Subject 1. Subject 1 ran into a gangway with Officer A behind him. Officer C drove to the location of the gangway and exited the vehicle. Officer C ran into the north side gangway of the building because she figured that Subject 1 would run out that way. Officer C could hear shuffling and then a gunshot as she ran through the gangway. Officer C approached the rear of the building slowly and holding her gun as she expected someone to jump out at her. Officer C observed Subject 1 on the ground when she reached the rear of the building. Officer C went back around the front of the building and then through the original gangway where Officer A was. Officer A was standing next to Subject 1 as he requested an ambulance. Subsequently, Officer C was informed that Officer D and Officer B had lost the driver offender during the pursuit. (Att. 69)

In a statement with the IPRA on 29 Jun 11, **Officer A** stated that he and his partner, Officer B responded to an assist call by Beat 744. Officer A observed Officer C pointing her gun at the passenger, now known to be Subject 1, seated in the vehicle. Officer C ordered Subject 1 to show his hands and not to move. At some point, Subject 1 jumped from the passenger side to the driver's side and fled out the open driver's door. Officer A gave chase on foot. When Officer A reached the sidewalk, Subject 1 had a five-house lead on him. Officer A yelled at Subject 1, "Police, stop," but he continued to run into the houses. Officer A took his gun out because he felt that it was a dangerous situation. Officer A explained that he had observed something black in Subject 1's hand that he believed to be a gun, Officer C had her gun pointed at Subject 1 and Officer D had radioed information during his pursuit of the driver that he was holding his side. Officer A was holding his gun in his right hand with his trigger finger on the slide lock as he continued to run after Subject 1. Officer A lost sight of Subject 1 when he ran in the gangway. Officer A ran through the gangway and when he was at the end of the building, Subject 1 lunged at him. Subject 1 struck Officer A causing him to go backwards. At that time, Officer A's firearm discharged and fatally struck Subject 1 in the head. Subject 1 fell to the ground and Officer A called for an ambulance and reported the shot fired. Officer A stated that when he was struck by Subject 1, his finger instinctively moved to the trigger; Officer A thought that his instincts and training took

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over. Officer A admitted that his finger would have to have been on the trigger in order for the firearm to discharge. (Att. 79)

General Order 03-02 and 03-02-01: Use of Force Guidelines and Use of Force Model reads in part a peace officer need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. The Use of Force Model primary objective is to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances. The model provides guidance on the appropriate amount of force to be used to affect a lawful purpose. (Att. 81, 82)

General Order 02-08-03 Section III, 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 involves 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.

(Att. 87)

CONCLUSION:

The Reporting Investigator recommends a finding of **Unfounded** for **Allegation #1** against **Officer A**, that he mishandled his firearm. It was reasonable for Officer A to believe that Subject 1 was armed. Officer A reported that he had heard another officer report that he was chasing an offender who was possibly armed. When he first arrived on the scene, Officer A observed Officer C pointing her weapon at Subject 1, who refused to comply with her instructions to show his hands. Witness Officer C and Officer B observed Subject 1 make movements with hands instead of showing them as directed by Officer C. Despite being held at gunpoint by an officer, Subject 1 fled the scene. Officer

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A reported that he saw Subject 1 holding something black that Officer A believed to be a gun.

Officer A was in foot pursuit of Subject 1 during the daylight hours with his firearm in his hand because he was in fear for his safety, due to his reasonable belief that Subject 1, or the other offender, were armed. Officer A reported in his statement to IPRA that his finger was on the slide lock of his weapon prior to Subject 1 lunging at him and knocking him backwards. Officer A admitted that his weapon would not have discharged without his finger having been on the trigger. Officer A opined that his training and instincts took over, causing him to place his finger on the trigger when Subject 1 “lunged” at him.

The Reporting Investigator recommends a finding of **Unfounded** for **Allegation #2** against **Officer A**, that he discharged his firearm without justification, striking Subject 1. It is undisputed that Officer A discharged his weapon and fatally shot Subject 1.

However, Officer A’s discharge of his firearm was not unjustified when he shot Subject 1. It was reasonable for Officer A to believe that Subject 1 was armed. When he first arrived on the scene, Officer A observed Officer C pointing her weapon at Subject 1, who refused to comply with her instructions to show his hands. Witness Officer C and Officer B observed Subject 1 make movements with hands instead of showing them as directed by Officer C. Despite being held at gunpoint by an officer, Subject 1 fled the scene. Officer A reported that he saw Subject 1 holding something black that Officer A believed to be a gun. Officer A engaged in a foot pursuit of Subject 1, but then lost sight of him when he entered a gangway. Officer A reported that he held his weapon because he was felt the situation was dangerous and he feared for his safety. Officer A’s next interaction with Subject 1 occurred in the gangway when Subject 1 lunged at Officer A and knocked him backwards. This aggressive action by Subject 1 classified him as an assailant to Officer A, who reasonably believed that Subject 1 was armed. It was at this time that Officer A discharged his weapon, striking Subject 1. According to the Department’s policy on Deadly Force, Officer A was justified in using deadly force to prevent death or great bodily harm because he was confronted by Subject 1, a subject who was classified as an assailant, whom he reasonably believed to be armed.