

INVESTIGATION

SUBJECT: LOG #1027936 / U#09-26

OFFICER #1

INVOLVED: “Officer A” (Chicago Police Officer); Male/Hispanic; 29 years old;
On-Duty; In uniform; Year of Appointment – 2007

OFFICER #2

INVOLVED: “Officer B” (Chicago Police Officer); Male/Black; 29 years old;
On-Duty; In uniform; Year of Appointment – 2006

OFFICER #1

INJURIES: None reported.

OFFICER #2

INJURIES: None reported.

SUBJECT: “Subject 1”; Male/Black; 25 years old

SUBJECT’S

INJURIES: One gunshot wound to the right third (middle) finger with an
abrasion/laceration. Treated and released at St. Bernard Hospital.

INITIAL

INCIDENT: Shots Fired.

**DATE/TIME/
LOCATION OF
INCIDENT:**

05 JUL 2009. 0245 hours. 72 E. 75th Street, (outside).
Beat 323.

SUMMARY OF INCIDENT:

On 05 JUL 09, at approximately 0245 hours, Chicago Police Officer A and Officer B, assigned to Beat 356, were driving west on 75th Street, in a marked squad car. As they approached Michigan Avenue, they observed patrons exiting a club called, "The 50 Yard Line," located at 69 E. 75th Street. Some of the patrons appeared to be arguing at the mouth of an alley located on the north side of 75th Street. Officer A and Officer B turned onto Michigan and, after hearing gunshots, parked and approached the area on foot. As they neared the front of the establishment, Officer A and Officer B observed a male/black (now known as the subject, Subject 1) shooting at a group of people near the west alley. Subject 1 and two other individuals (now known as Witness 3 and Witness 2) fled toward a car that was parked in a parking lot located between the establishment and the alley. Officer A and Officer B announced their office. Subject 1 turned and fired a weapon at them. In fear for their lives, Officer A and Officer B returned fire. Subject 1 turned and fled north in the alley. Officer A pursued Subject 1 on foot. Officer B remained at the scene and took Witness 3 and Witness 2 into custody. Officer A followed Subject 1 north in the alley, west on 74th Street and then south on Wabash, where he observed Subject 1 run through a gangway, to the alley. Officer A returned to the alley, located Subject 1 hiding in another gangway and took him into custody. A Smith & Wesson, .40 caliber handgun was recovered underneath a vehicle that was parked at 57 E. 74th Street, just west of the north end of the alley. A second weapon, a Bryco Arms 9mm handgun, was recovered underneath bushes located at 62 E. 75th Street, just west of the south end of the alley. Subject 1 was transported to St. Bernard Hospital for treatment of a single gunshot wound to the third finger on his right hand.

INVESTIGATION:

On 05 JUL 09, at approximately 1220 hours, a Roundtable Panel was conducted regarding the police involved shooting of Subject 1. One civilian witness, Witness 1, one responding detective, CPD Detective A, Unit 620, and the involved officers, Officer A and Officer B, were present. (Att. #4).

Officer A related to the Roundtable that he and his partner, Officer B, were on patrol in their marked squad car, driving west on 75th Street, when they observed a group of individuals arguing near the mouth of the alley, west of Michigan Avenue. Officer A heard shots fired and observed the crowd disperse. Officer A and Officer B exited their vehicle, approached the alley and observed a male/black subject (now known as Subject 1) discharge a weapon. Several individuals retreated to a parking lot. Subject 1 and two additional individuals (now known as Witness 3 and Witness 2) fled toward a vehicle. Officer A and Officer B announced their office and instructed Subject 1 to stop. Subject 1 turned toward the officers, pointed the gun at the officers and fired at them. In fear of their lives, Officer A and Officer B returned fire. Officer A discharged his weapon eight times, while approximately 10-15 feet away from Subject 1. Subject 1 fled north into an alley and then fled north onto 74th Street. Officer A pursued Subject 1 on foot, while keeping his distance and repeatedly instructing Subject 1 to show his hands. Officer A found Subject 1 hiding behind some bushes located at 7409 S. Wabash and observed blood on his clothing. Subject 1 stated to Officer A, "You shot my hand." Officer A continued to ask Subject 1 to show his hands. Instead of complying, Subject 1 fled into a gangway and jumped over a fence, into a yard, and then jumped over another fence, into another yard. Officer A radioed Subject 1's direction of flight and ran back to 74th Street, into the alley, where he met another officer. Officer A described Subject 1 to the officer and explained what had occurred. Both officers searched the alley and discovered Subject 1 on the ground, in the gangway of 7414 S. Wabash. The officers instructed Subject 1 to approach them. Subject 1 initially complied, but later resisted, necessitating the officers to forcefully handcuff him, following a brief struggle. (Att. #4).

Officer B related to the Roundtable essentially the same account as Officer A. His account was also consistent with the Summary of the Incident. Officer B additionally related that he was the driver officer and that he and Officer A initially thought the shots they heard were firecrackers. Officer B fired seven shots, while approximately 10-15 feet away from Subject 1, but was unaware of the number of shots that Subject 1 fired. Officer B did not pursue Subject 1 on foot. He remained in the parking lot and focused his attention on Witness 3 and Witness 2, who did not flee. Officer B pointed his weapon at Witness 3 and Witness 2. They were compliant with Officer B's instructions to place their hands on the vehicle and were taken into custody without incident. No weapons were found on Witness 3 or Witness 2, following a search of their person by Officer B. Officer B left Witness 3 and Witness 2 in the custody of assisting officers who later arrived at the scene and entered his vehicle to look for Officer A. Officer B met Officer A in the alley, behind 7413 S. Wabash, where he observed that Subject 1 was already in custody. (Att. #4).

CPD Detective A related to the Roundtable that, in addition to Subject 1 being shot, four civilians, namely Witness 5¹, Witness 6, Witness 7 and Witness 1, were shot. Witness 5 and Witness 7 were transported to Christ Hospital, by Chicago Fire Department Ambulance #14 and #25, respectively. Witness 5 was treated for through and through gunshot wounds to both thighs and to the left side of the chest. Witness 7 was treated for a gunshot wound to the abdomen. Witness 6 was transported to Stroger Hospital, by Chicago Fire Department Ambulance #55, for treatment of a gunshot wound to the right rear flank, in the kidney area, that was lodged. CPD Detective A interviewed Witness 5 at Christ Hospital. Witness 5 informed CPD Detective A that he and the other shooting victims were inside the “50 Yard Line” night club with another group of individuals whom they have an ongoing dispute. Everything was fine until they exited the club. After exiting the club, five individuals, one of whom produced a handgun, confronted Witness 5 and his group. Witness 5 turned to the side and then heard gun fire. Witness 5 was shot but did not observe anyone fire upon him. Witness 5 viewed a six person lineup and identified Subject 1, whom he has seen in the neighborhood before, as the individual who produced the handgun. Witness 7 was unavailable for an interview due to surgery. Witness 6 was unavailable for an interview due to heavy sedation. CPD Detective A stated that two weapons were recovered from the scene.² An addition, eight .40 caliber cartridge casings and fifteen 9mm, Winchester Luger +P, Department issued casings were recovered from the general area where Officer A and Officer B were standing when they fired at Subject 1, at the mouth of the alley and north of that location. There was no indication that the Bryco Arms 9mm handgun was fired due to the location and type of the 9mm cartridge casings that were recovered. (Att. #4).

Witness 1 related to the Roundtable that he was inside the club with his two cousins, identified as Witness 3 and Witness 8, when Witness 3 engaged in an argument with another group of individuals. Security intervened and removed the group of individuals, including Witness 3, from the club. Approximately 20 minutes later, the club closed and as Witness 1 and Witness 8 were exiting the club to meet Witness 3, they observed Witness 3 arguing with the same group of individuals. A male/black (now known as Subject 1) displayed a gun. The gun “went off.” Witness 1 separated from Witness 8 and the other individuals and fled east on 75th Street and north on Michigan Avenue before he entered his vehicle on 74th Street and drove around the block. Witness 1 observed a police officer and asked the officer if he knew where Witness 8 was. Witness 8 called Witness 1 on his cell phone while he was still talking to the officer. Witness 1 met Witness 8 and left the scene only to notice pain in one of his feet and a bullet hole in his shoe. Witness 1 sought medical treatment at St. Bernard Hospital for a graze wound to his toe. (Att. #4).

During a statement with the Independent Police Review Authority (IPRA), Witness 1, provided essentially the same account of the incident that he provided to CPD Detective A. (Att. 8).

¹ Identified subsequently in police reports as Witness 5.

² One weapon was a Smith & Wesson .40 caliber handgun and the second weapon was a Bryco Arms 9mm handgun.

During a statement with IPRA, the witness, Witness 2, stated that he and his friend, “[Name Withheld]” stopped and parked near the “50 Yard Line,” after they left a different party, so that Witness 2 could talk to some girls. Witness 2, who said he was “half drunk,” observed several unknown individuals tussling with each other near an alley outside the club and then heard gunshots coming from the same direction. Witness 2 did not observe who actually fired the gunshots. The police arrived and Witness 2 observed several individuals running down the alley. Witness 2 heard additional gunshots coming from the same area and knew that the individuals were shooting at the police. Two officers shot back at the individuals who were in the alley. Witness 2 ducked down in his seat and heard one of the officers describe the individual who was shooting as wearing all white. Witness 2 did not see anyone but the officers shoot because he ducked. Witness 2 was later taken into custody because he was wearing all white, which was the same color that the individual who was shooting was wearing. (Att. #6).

Subject 1, refused to provide a statement to the IPRA. (Att. #10 & #57).

During an interview with CPD Detective B, Unit 620, at St. Bernard Hospital, Subject 1, stated that he was at the “50 Yard Line” with his cousin, [Name Withheld], who was visiting from Minnesota (no further information). An altercation ensued outside the club and someone displayed a gun and started shooting. Subject 1 fled northbound in the alley between Michigan and Wabash and, at some point, Subject 1 realized that he had been shot in the hand. Subject 1 fled west on 74th Street and south on Wabash, through a yard and back into the alley. Subject 1 then fled into another yard and hid there. Subject 1 heard someone tell him to, “Freeze,” and observed the police. Subject 1 returned to the alley and was arrested. (Att. #13).

During an interview, with CPD Detective C and CPD Detective D, Unit 620, Subject 1 stated that he was at the 50 Yard Line club with two cousins. He left at closing time and as he exited, saw his cousins in an altercation with some unknown individuals. Subject 1 said that he walked over to the group. When he did, he saw one of the unknown individuals pull out a handgun. Subject 1 grabbed the handgun and a struggle for possession of the weapon ensued. During the struggle Subject 1 cut his hand. Subject 1 further related shots go off [sic] and he ran north down the alley. He stated that the police chased after him and shot at him. He admitted that he took possession of the weapon and threw it under a car at the end of the alley. When questioned as to whether he fired the weapon, Subject 1 stated that he may have, but only did so in defense of being shot at himself. When confronted with the fact that the only fired cartridge cases came from the weapon he had (all the others were from police weapons), Subject 1 had no explanation. He denied ever seeing the police and denied ever firing at the officers. (Att. 62)

Witness 3, refused to cooperate with this investigation. (Att. #48)

An attempt to obtain a statement from Witness 5, were made but met with negative results. (Att. #14).

In information provided by CPD Detective C, Unit 620, he provided the name and contact information for Witness 4. According to CPD Detective C, Witness 4 stated that she lives in Minneapolis and “owns the vehicle with the Minnesota license plates that Subject 1 was running toward when he shot at the involved officers”. At the time of the police-involved shooting, Witness 4 was in Chicago visiting her sister. No record of an interview of Witness 4 by detectives could be located. (Att. #11)

During a telephone interview with the IPRA, Witness 4, stated that she went to the “50 Yard Line” by herself but did not find anyone she was looking for. Witness 4 left the club and walked to her car because people were outside arguing. Witness 4 opened her car door and heard several gunshots. Assuming that she was being carjacked, Witness 4 dropped her keys and ran north through the alley. Witness 4 eventually saw a squad car and told the police what happened. Witness 4 never observed anyone discharge a weapon and observed the police at the scene after the shooting was over. (Att. #11)

The Chicago Fire Department (CFD) Emergency Medical Services (EMS) Incidents Record indicates that on 05 July 2009, CFD Ambulance #22 responded to 7413 South Wabash, arriving on scene at 0316 hours. The paramedics (CFD Paramedic 1 and CFD Paramedic 2) found Subject 1 sitting on the ground, awake and alert; he smelled of alcohol. He complained of being shot in the finger. Subject 1 had a bleeding wound to the third digit of his left hand. He told the paramedics that he sustained the wound “at time he heard shots being fired”. The paramedics transported Subject 1 to St. Bernard Hospital without any change in his condition. He was released to the Emergency Department staff at the hospital. The EMS report makes no mention of Subject 1 claiming that he was shot by the police. (Att. #63)

The medical records from St. Bernard Hospital indicate that on 05 JUL 09, Subject 1 entered the triage in police custody with a gunshot wound to the right hand. Subject 1 was diagnosed with a gunshot wound to the right index finger with an abrasion/laceration. (Att #43).

The Crime Scene Processing Report, Evidence Technician photos and the Video Tape depict the scene and surrounding area of the police-involved shooting; the location of recovered evidence; damage to vehicles surrounding the police-involved shooting and the individuals involved in the incident. (Att. #31 - #34).

The related Department reports consisting of the Arrest Reports; General Offense Case Report; Detective Supplementary Reports; Tactical Response Reports (TRRs); and Officer’s Battery Reports contain information that is consistent with the Summary of Incident. Additionally, Witness 6 provided an account to the detectives that was consistent with the account of Witness 5 and stated that when he turned back, while walking away from the establishment and the argument between Witness 7 and the other individuals, he heard one gunshot and immediately fled in the opposite direction. He heard a second gunshot and fell to the ground. Witness 6 viewed a photo array containing six individual pictures and identified Witness 3 and Witness 1 as the individuals with whom Witness 7 was arguing. Witness 6 informed the detectives that

Witness 3 and Witness 1 were of similar appearance and he was not sure which individual Witness 7 had the confrontation with, inside and outside the club. Witness 6 never observed anyone with a gun. (Att#15, #16, #17, #18, #19, #20, #21, #25, #26, #55, #56, #61, #62).

The Office of Emergency Management and Communications (OEMC) disk contained calls to 911 and OEMC/CPD radio transmissions. There were eight calls from citizens to 911 to report shooting at 7400 South Michigan Avenue near the 50 Yard Line nightclub. As OEMC is dispatching the call a unit (apparently Beat 356) reports shots fired at the police. Reports of individuals shot at the scene and descriptions of the offender come over the air. A chase of the offender is reported and eventually Beat 356 indicates they returned fire at the offender and that the offender was in custody at 7400 South Wabash in an alley. Beat 356's supervisor, Beat 350, was monitoring the above transmissions and took control of securing the scene for the subsequent investigation. (Atts. 44, 60)

A report from the Illinois State Police, Division of Forensic Services, dated 29 JUL 09, indicates that Inventory #11718644, the clothing recovered from Subject 1, may not have contacted a primer gunshot residue (PGSR) related item or may not have been in the environment of a discharged firearm. If they were, then the particles were not deposited, were removed by activity or were not detected by the procedure. Inventory #11718517, a gunshot residue (GSR) kit recovered from Witness 2 indicates that Witness 2 may not 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. Inventory #11718515, was one GSR kit recovered from [Alias].³ indicates that [Alias] discharged a firearm, contacted a PGSR related item or had both hands in the environment of a discharged firearm. (Att. #35)

A report from the Illinois State Police, Division of Forensic Services, dated 29 JUL 09, indicates that Inventory #11718721, a Sig Sauer, model P226, 9mm Luger caliber semi-automatic pistol, serial #U746293 (Officer A's weapon), was examined, found to be in firing condition, test fired and had rifling characteristics of six lands and grooves with a right hand twist. A magazine inventoried under the same number was used to test fire the firearm. Fifteen unfired cartridges recovered from the above magazine were examined for caliber and type. Two of the unfired cartridges were used to test fire the firearm. A second magazine inventoried under the same number fit and functioned in the firearm. Seven unfired cartridges from that magazine were also examined for caliber and type. (Att. #35)

A report from the Illinois State Police, Division of Forensic Services, dated 29 JUL 09, indicates that Inventory #11718734, a Sig Sauer, Model P229, 9mm Luger caliber semi-automatic pistol, serial #AAU05641 (Officer B's weapon), was examined, found to be in firing condition and test fired. It had rifling characteristics of six lands and grooves with a right hand twist. An unfired cartridge recovered from the chamber of the firearm

³ Police reports indicate that [Alias] is also now known as Witness 3.

was examined for caliber and type. A magazine inventoried under the same number was used to test fire the firearm. The unfired cartridges from that magazine were examined for caliber and type. Two of the cartridges were used to test fire the firearm. A second magazine inventoried under the same number fit and functioned in the firearm. The unfired cartridges from the second magazine were also examined for caliber and type. (Att. #35)

A report from the Illinois State Police, Division of Forensic Services, dated 29 JUL 09, indicates that Inventory #11718826, fifteen Winchester 9mm Luger +P caliber fired cartridge cases, were examined, eight were fired in Officer A's weapon. The remaining seven cartridge cases in Exhibits 15I-15) were fired in Officer B's weapon. (Att. #35)

A report from the Illinois State Police, Division of Forensic Services, dated 29 JUL 09, indicates that Inventory #11718791, one fired bullet, Inventory #11718787, a fired bullet jacket fragment, and Inventory #11720367, one fired bullet, were 40/10mm caliber exhibiting six lands and grooves with a left hand twist and were fired from the same firearm. They were not fired from Officer A's weapon or Officer B's weapon. Inventory #11718790, a lead core, and a lead fragment that was also inventoried under #11718787 were unsuitable for further microscopic comparison. Inventory #11718783, one Winchester 40 S&W caliber fired cartridge case, and one "S&B 40 S&W" caliber fired cartridge case were fired from the same firearm as Inventory #11720367, one fired bullet, and Inventory #11718779, six fired cartridge cases. None of the above fired evidence was fired in Officer A's weapon or Officer B's weapon. (Att. #35).

A report from the Illinois State Police, Division of Forensic Services, dated 04 JAN10, indicates that Inventory #11718746, a Bryco Arms, model Jennings Nine, 9mm Luger caliber semi-automatic pistol, was examined, found to be in firing condition and test fired. It has rifling characteristics of six lands and grooves with a right hand twist. A magazine inventoried under the same number was used to test fire the firearm. Unfired cartridges also inventoried under the same number were examined for caliber and type. A Smith & Wesson, model SW40V Limited 1998, .40 S&W caliber semi-automatic pistol, serial number PBB1160 was examined, found to be in firing condition and test fired. It has rifling characteristics of six lands and grooves with a left hand twist. Previously referenced fired evidence (Inventory #11720367 and Inventory #11718783) were fired from this weapon. A magazine inventoried under the same number as the firearm was used for test firing. (Att. 45)

A report from the Illinois State Police, Division of Forensic Services, dated 09 NOV 09, indicates that Inventory #117777398, one fired bullet jacket was 40/10mm exhibited six lands and grooves with a left hand twist. One lead fragment and one lead core, also inventoried under the same number, were unsuitable for further microscopic testing. (Att. #37)

A report from the Illinois State Police, Division of Forensic Services, dated 29 OCT 09, indicates that Inventory #11718750, following swabbing of the trigger area and the

magazine of a Smith & Wesson Model SW40V, Limited 1998 9mm semi-automatic pistol,⁴ blood was indicated on both. (Att. #36).

A report from the Illinois State Police, Division of Forensic Services, dated 22 DEC 09, indicates that Inventory #11718746, one pistol, one magazine, 4 live cartridges and Inventory #11718750, one pistol and one magazine, revealed no latent impressions suitable for comparison. (Att. #38).⁵

Traces by the United States Bureau of Alcohol, Tobacco, and Firearms (ATF) resulted in the information that the Bryco Arms 9mm was purchased on 11 April 2002 in Little Rock, Arkansas and that the S&W 40 caliber was purchased on 24 January 1999 in Jackson, Mississippi. (Att. #58)

During a statement with the IPRA dated 4 March 2011, Officer A related basically the same account of the incident as that he gave at the Roundtable. He stated that he was riding in the passenger seat of a marked Crown Victoria acting, to the best of his recollection, as a rapid response car. In the vicinity of 72 East 75th Street, Officer A witnessed a male dressed in white discharging a firearm into a crowd in a northerly direction. Officer A and his partner, Officer B, approached the subject, announced their office, and ordered the subject to put down the weapon. At this point the subject turned towards the officers and fired. The officers returned fire, and the subject fled northbound down an alley. Officer A was about 10-15 feet away from the subject when he fired what he later learned were eight shots. His backstop at the time that he discharged his weapon was a vehicle and garage.

After glancing at Officer B, confirming his safety, Officer A pursued the subject down an alley from 75th Street all the way down to 74th Street when the subject turned westbound towards Wabash. Then the subject proceeded south and hid in some bushes. As Officer A requested help over the radio and then ordered the subject to surrender, the subject jumped over a fence in a gangway going eastbound, then jumped over a fence into an alley. Officer A stated that he ran around to the other side of the fence, in the alley near 74th and Wabash, where he met with several assisting officers and gave them the subject's description and a summary of what had transpired. After conducting a thorough search the officers found the subject lying face down in some grass. The officers ordered the subject to come towards them, and then the assisting officers placed him into custody while Officer A caught his breath. Officer A stated that the subject's weapon was recovered underneath a vehicle "in the 74 block," but could not recall the exact address. (Atts. #51, #54)

During a statement with the IPRA dated 2 March 2011, Officer B related basically the same account of the incident as he gave at the Roundtable. He stated he was driving in a marked vehicle as his partner, Officer A, rode in the passenger seat. Officer B stated

⁴ Recovered from under a vehicle.

⁵ A subsequent report from the ISP Firearms Section identified the pistol inventoried under #11718746 as a Bryco Arms 9mm, and the pistol inventoried under #11718750 as a Smith & Wesson Model SW40V, Limited 1998, 40 S&W caliber.

that in the area of 72 East 75th Street they heard loud reports and saw people running and screaming as they approached the scene. Officer B asked Officer A if there was any shooting occurring, and Officer A affirmed. Officer B then saw a black male (later identified as Subject 1) shoot into a crowd to the south. The officers approached, announcing their office, with their weapons drawn. Then Subject 1 turned to his left and shot at the officers, and the officers returned fire at a distance of about 10-15 feet.

Subject 1 then began fleeing northbound down the alley. Officer B ran to apprehend the individuals Subject 1 had been standing with as Officer A pursued Subject 1. When a car from the 006th District arrived on the scene, the officers held the subjects for Officer B so that he could aid his partner in the pursuit of Subject 1. Officer B stated that as he ran down the alley a Rapid Response car began approaching southbound down the alley from 74th Street. Officer B then saw officers get out of the vehicle jump over a fence and help Officer A place Subject 1 into custody.⁶ (Atts. #51, #53)

⁶ Subject 1's Arrest Report identifies the actual arresting officers as Officer C and Officer D, who were assigned to Beat 0313.

CONCLUSION AND FINDINGS:

This investigation found that the use of deadly force by Officer A and Officer B was in compliance with Chicago Police Department policy and Illinois State Statutes. According to the Chicago Police Department's General Order 02-08-03, 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."

Officer A and Officer B saw Subject 1 fire a weapon into a crowd of people, then turn and fire at the officers. Officer A and Officer B returned fire in fear for their lives. Subject 1's weapon, as well as a second weapon, was recovered. It was later determined that Subject 1's weapon had been fired numerous times. Officer A and Officer B observed Subject 1 use force likely to cause death or great bodily harm on the civilian individuals, and then on the officers themselves.