

Independent Police Review Authority
Log #1029595 / U #09-36

INVESTIGATION

NUMBER: Log #1029595/ U #09-36

OFFICER

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 42 years old;
On- Duty; In Uniform; Year of Appointment – 2005

OFFICER’S

INJURIES: None

OFFICER

INVOLVED: “Officer B” (Chicago Police Officer); Male/White; 42 years old;
On- Duty; In Uniform; Year of Appointment – 1994

OFFICER’S

INJURIES: None

OFFICER

INVOLVED: “Officer C” (Chicago Police Officer); Male/Hispanic; 27 years old;
On- Duty; In Uniform; Year of Appointment – 2005
(did not shoot)

OFFICER’S

INJURIES: None

OFFICER

INVOLVED: “Officer D” (Chicago Police Officer); Male/White; 41 years old;
On- Duty; In Uniform; Year of Appointment – 1998
(did not shoot)

OFFICER’S

INJURIES: Shot in vest; treated for contusion to chest and shoulder at
Northwestern Hospital

SUBJECT:

“Subject 1”; Male/White; 45 years old

SUBJECT’S

INJURIES: Multiple gun shot wounds to the torso; transported to Northwestern
Hospital; Pronounced dead at 1309 hours by Doctor A.

INITIAL

INCIDENT: Aggressive Panhandler, armed with a knife, at 320 N. Michigan

DATE/TIME:

27 August 2009, 1249 hours

LOCATION:

151 N. State – Outside

SUMMARY OF INCIDENT:

On 27 August 2009, at 1249 hours, Officer E, observed Subject 1 panhandling and blocking the entrance in front of the Chipotle restaurant located at 320 N. Michigan. Officer E stopped Subject 1 and asked him for identification. Officer E informed Subject 1 that if he did not have identification he would have to call for a wagon and take Subject 1 into custody.

Officer E got on his radio while Subject 1 produced a knife and began walking away from Officer E. Officer E drew his weapon and ordered Subject 1 to drop the weapon. Subject 1 began swinging the weapon as he walked away from Officer E. Officer E sent a flash message to units in the area explaining the events that occurred. Subject 1 walked west on Wacker Place, and then walked south on North State Street. Officers in the area then began to follow Subject 1 and repeatedly ordered him to drop the weapon.

As Subject 1 approached the area of 151 N. State Street, Officer B discharged his OC Spray striking Subject 1 about the face and left shoulder. Subject 1 failed to drop his weapon and continued to disregard the officers' verbal directions. Officer B then utilized his ASP baton and attempted to trip Subject 1 by striking his feet. Officer B's efforts were not successful.

Officer C then utilized his ASP baton to strike Subject 1 on the hand and arm, but Subject 1 refused to drop his weapon. Subject 1 then grabbed an elderly man, [Victim], from behind and placed a knife to [Victim's] neck.

The officers cleared the area and Officer D ran behind Subject 1 as he held [Victim]. At some point, [Victim] fell to the ground. Subject 1 then raised the knife, and Officer D grabbed Subject 1's right arm. Officer B and Officer A each fired three shots, striking the subject. One of the bullets struck Officer D in his ballistic vest. CFD Ambulance #31 transported Subject 1 to Northwestern Hospital where he was pronounced at 1309 hours by Doctor A.

Officer D was also transported to Northwestern Hospital, where he was treated for contusion and soreness. CPD Evidence Technicians recovered a fired round from Officer D's ballistic vest. The evidence was documented under Inventory # 11770636.

INVESTIGATION:

On 27 August 2009, [Victim] related to the Roundtable Panel that he was walking from the French Consulate located at 205 N. Michigan Avenue on the date in question. [Victim] related that, while he was walking westbound on Randolph Street, someone grabbed him from behind by his neck and pulled him backwards. [Victim] fell downward onto the street. As he fell, he heard several gunshots. [Victim] related that he did not see the person who grabbed him. [Victim] also related that he did not know that the person who grabbed him had a knife. [Victim] did not see or feel the knife. [Victim] related that he was not sure if he lost consciousness, but he does remember that an officer helped him up from the street. IPRA Investigator A and IPRA Coordinator were present for the Roundtable Panel

[Victim] provided a consistent account of this event in a statement to IPRA on 27 August 2009.

On 27 August 2009 Officer E, related to the Roundtable Panel an account of this event that is consistent with the Summary of Incident. IPRA Investigator A and IPRA Coordinator were present for the Roundtable Panel. It is noted that Officer E did not witness the shooting.

On 27 August 2009 Officer B, related to the Roundtable Panel an account of this event that is consistent with the Summary of Incident. IPRA Investigator A and IPRA Coordinator were present for the Roundtable Panel

Officer B would later provide a consistent account of this event in a statement to IPRA on 9 November 2011.

On 27 August 2009 Officer C, related to the Roundtable Panel an account of this event that is consistent with the Summary of Incident. Officer C instructed Subject 1 to drop his knife several times. Officer C related that Subject 1 yelled, "You are going to have to shoot me, I'm not dropping the knife, fuck you." IPRA Investigator A and IPRA Coordinator were present for the Roundtable Panel

Officer C would later provide a consistent account of this event in a statement to IPRA on 22 November 2011.

On 27 August 2009 Officer A, related to the Roundtable Panel an account of this event that is consistent with the Summary of Incident. IPRA Investigator A and IPRA Coordinator were present for the Roundtable Panel.

Officer A would later provide a consistent account of this event in a statement to IPRA on 9 November 2011.

On 27 August 2009 Officer D, related to the Roundtable Panel an account of this event that is consistent with the Summary of Incident. IPRA Investigator A and IPRA Coordinator were present for the Roundtable Panel

Officer D would later provide a consistent account of this event in a statement to IPRA on 8 November 2011.

Officer F, in his statement to IPRA on 7 November 2011, related that he was in the vicinity of the incident and observed Subject 1 grab an older man while holding a knife in his hand. Officer F stated that he heard several shots, but did not see which officer discharged their weapon.

Officer G, in his statement to IPRA on 4 November 2011, related that he along with Officer D utilized several tools to subdue Subject 1 with negative results. Officer G related that at some point Subject 1 grabbed [Victim], while holding a knife in his hand. Officer G stated that Subject 1 was directed several times to drop the knife and let [Victim] go. Officer G related that Officer D grabbed Subject 1's arm and wrestled with him. [Victim] fell to the ground and several officers discharged their weapon striking Subject 1.

In statements to IPRA, the below listed witnesses all provided an account of this event that is consistent with the statements given by the involved and witness officers. All of the witnesses interviewed related that Subject 1 was posing an immediate threat to the life and/or safety of [Victim] at the time of the shots being fired. It is noted that none of the independent witness refute any statements given by the victim, the involved officers, or the witness officers.

In his statement to IPRA on 27 August 2009, Witness 1 related that Subject 1 grabbed (a person now known as [Victim]) from behind and placed him in a choke hold position with his left arm wrapping around the his neck.

Witness 1 related that a few feet away in front of Subject 1 were two unknown uniformed officers. Witness 1 observed one of the officers with his weapon drawn and pointed in the direction of Subject 1. Witness 1 related that he heard what sounded like gunshots being fired and observed that Subject 1 fall to the ground. Witness 1 observed [Victim] run away from Subject 1 and towards the two officers.

In his statement to IPRA on 27 August 2009, Witness 2 related that he observed approximately six uniformed male officers telling Subject 1 to drop the knife to the ground. Witness 2 related that an officer wearing a police jacket ran up to Subject 1 and attempted to knock him to the ground. Subject 1 was able to dodge the officer. Subject 1 demanded that the police leave him alone.

Witness 2 related that Subject 1 grabbed [Victim] with his left hand and held the knife in his right hand. Witness 2 stated that [Victim] fell to the ground. Witness 2 related that Subject 1 stepped out onto State Street while still holding the knife, and two uniformed officers fired four shots. After the shots were fired, Subject 1 fell to the ground.

In his statement to IPRA on 27 August 2009, Witness 3 related that Subject 1 was waving a knife in his right hand and saying, "Leave me alone." Three white male officers had their guns drawn and pointed in Subject 1's direction. The officers were directing Subject 1 to get down on the ground. Subject 1 continued to respond, "Leave me alone, leave me alone," and continued waving his knife around. One of the officers sprayed Subject 1 with OC spray, but the spray had no effect. Subject 1 then accosted [Victim], who was standing nearby. Subject 1 put his left hand around [Victim]'s neck with the knife in his right hand.

Witness 3 related that one of the officers grabbed Subject 1 around his right shoulder and pulled him from [Victim], whom he was holding hostage. Witness 3 related that Subject 1 lost his balance and was falling on his back when the shots were fired.

In his statement to IPRA on 27 August 2009, Witness 4 related that he observed an officer at the scene draw his weapon and fire two shots at Subject 1. Witness 4 related that Subject 1 fell to the ground.

In her statement to IPRA on 27 August 2009, Witness 5 related that Subject 1 grabbed [Victim] and placed a knife to his side. Witness 5 related that the officers displayed their weapons and instructed Subject 1 to release [Victim]. Witness 5 left the immediate area and heard five gunshots. Witness 5 did not witness the shooting.

According to **Medical Records from Northwestern Memorial Hospital**, Subject 1 was pronounced dead at 1309 hours by Doctor A.

According to **Medical Examiner Doctor B**, Subject 1 sustained six gunshot wounds. Doctor B stated that the cause of death was multiple gunshot wounds and the manner of death was homicide.

A **Canvass** of the area of the incident was made in an attempt to locate additional witnesses and/or evidence. Additional information was not discovered. It is noted that there is no physical or testimonial evidence that refutes the statements provided by the involved officers.

The **Department Reports, Tactical Response Reports**, and the **Officer's Battery Reports** all provided information that is consistent with the statements given by the involved officers and the independent witnesses.

The **OEMC and PCAD reports** were collected and made part of this case file. An analysis of said documents revealed no information that is inconsistent with the facts as related by the involved and witness officers. Attempts to locate additional independent witnesses were made to no avail.

Illinois State Police Forensic Science Laboratory Reports document the examination of the recovered ballistic evidence, in comparison to the firearms belonging to each officer. Both firearms tested were found to be in proper firing condition. The examination of the recovered ballistic evidence is consistent with the accounts of each involved officer. The one folding knife from the scene of the incident did not reveal any latent impressions suitable for comparison.

ISP reports further document that the fired projectile recovered from Officer D's ballistic vest was fired from Officer A's SIG Sauer 9mm pistol.

Video footage obtained from POD's 2725, 2274, 2271 and the video recording from Harold Washington College did not depict any images of the police involved shooting.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A and Officer B was in compliance with Chicago Police Department policy. 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 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."

According to multiple independent witnesses and Department members, the officers announced their office and directed Subject 1 to drop his weapon. Subject 1 did not follow verbal directions and did not respond to the physical attempts made by various Department members to stop him. Subject 1 grabbed [Victim] while holding a knife in his hand. Again, Subject 1 was directed to drop his weapon and release [Victim]. Subject 1 failed to comply with the directions of the officers. This placed Officers A and B in imminent fear of great bodily harm or death, both to themselves – and to [Victim]. After [Victim] fell to the ground, Officers A and B discharged their weapons striking Subject 1 on his torso. Based on the totality of the circumstances, Officer A's and Officer B's actions were reasonable to prevent death or great bodily harm coming to [Victim].