

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1030846 / U #09-42

INVESTIGATION

NUMBER: Log #1030846 / U #09-42

OFFICER

INVOLVED #1: “Officer A” (Chicago Police Officer); Male/Hispanic; 37 years old;
On Duty; In Uniform; Year of Appointment – 1999

OFFICER’S

INJURIES: None Reported

OFFICER

INVOLVED #2: “Officer B” (Chicago Police Officer); Male/Black; 47 years old;
On Duty; In Uniform; Year of Appointment – 1988
(DID NOT DISCHARGE FIREARM)

OFFICER’S

INJURIES: Soreness and pain to his back

OFFICER

INVOLVED #3: “Officer C” (Chicago Police Officer); Male/Hispanic; 39 years old;
On Duty; In Uniform; Year of Appointment – 1998
(DID NOT DISCHARGE FIREARM)

OFFICER’S

INJURIES: None Reported

SUBJECT: “Subject 1”; Male/Black; 24 years old

SUBJECTS’

INJURIES: One gunshot wound to right hip.

SUBJECTS’

WEAPONS: Motor Vehicle

INITIAL

INCIDENT: Disturbance/Fight at Fullerton and Troy

DATE/TIME

OF INCIDENT: 09 October 2009, 1615 hours

LOCATION: 2958 West Roosevelt Road

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1030846 / U #09-42

SUMMARY OF INCIDENT:

On 09 October 2009, at approximately 1615 hours several 911 calls were received regarding a disturbance near the location of Fullerton and Troy. Beat 4450A (Officers A and C) responded to the area and observed several subjects leaving the area. Officers A and C spoke with several male subjects who related that the fight was over and that there would be no further problems. Officers A and C observed a male subject, later identified as the victim/Subject 1 being walked away from the area by an unknown black male. Subject 1 and the black male walked to a Jeep that was parked on the south side of Fillmore. Subject 1 entered the Jeep in the driver's position. Officers A and C asked Subject 1 if he was okay through the open car window and Subject 1 stated, "Yes." Subject 1 then placed the Jeep into reverse and drove backwards down Fillmore at a high rate of speed. Subject 1 reached the next intersection and turned the Jeep around, drove forward and continued down Fillmore. Officers A and C entered their squad car and followed Subject 1 in the Jeep. Beat 1192, Officer B became the primary chase vehicle and attempted to cut Subject 1 Jeep off with his squad car near the location of Sacramento and Roosevelt. Subject 1 turned down the east alley off of Roosevelt and struck the front passengers side fender of Officer B's squad car. Subject 1 stopped the Jeep in the alley. Officer B exited his squad car and ran up to the drivers side door of the Jeep. Officer B opened the driver's side door and attempted to pull Subject 1 out of the vehicle. Subject 1 accelerated the Jeep, which trapped Officer B between the Jeep and a wrought iron fence. Officers A and C arrived at the location and approached the Jeep on the passenger's side. The Jeeps front passengers window was rolled down. Officer A, fearing that Officer B would be crushed and dragged under the Jeep, fired one shot through the open window, which struck Subject 1 in the right hip.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1030846 / U #09-42

INVESTIGATION:

On 09 October 2009, a Roundtable panel was conducted regarding an officer involved shooting. The following eight witnesses provided an account of the incident:

Officer C, related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Officer C stated that he was driving in Beat 4450A with his partner Officer A on the day of the incident. Officer C indicated that he and Officer A responded to an OEMC call of a disturbance at Fillmore and Troy and observed several people who related that two brothers were fighting. Officer C observed Subject 1 get into a Jeep and asked him if everything was alright. Officer C related that Subject 1 told him everything was fine. Officer C stated that Subject 1 then put the Jeep in reverse and drove from the scene at a high rate of speed. Officer C pursued Subject 1 in the squad car. Officer C indicated that as he pursued Subject 1 south on Sacramento, Officer B became the lead car in the pursuit. Officer C stated that Subject 1 came to a stop in an alley and he observed Officer B exit his squad car and approach Subject 1 Jeep on the driver's side. Officer C observed Officer B open the driver's side door, at which time Subject 1 turned the steering wheel to the left and accelerated, which dragged Officer B approximately 10-15 feet. Officer C yelled for Subject 1 to "Stop! Show me your hands! Let me see your hands!" Officer C feared that Officer B was going to be seriously injured and drew his firearm from his holster. Officer C indicated that Subject 1 continued to drive forward and Officer A discharged his firearm once at Subject 1 through the open passenger's side window. Officer C used the radio to call for two ambulances, one for Subject 1 and one of Officer B.

Officer B, related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Officer B stated that he was working Beat 1192 when he heard a radio call regarding 4450A chasing Subject 1. Officer B attempted to cut off Subject 1 as he entered an alley; however Subject 1 struck the front passenger's side of Officer B's squad car. Officer B exited his squad car and approached the driver's side of Mr. Lee's Jeep as it came to a stop in the alley. Officer B attempted to pull Subject 1 out of the Jeep, however Subject 1 accelerated, which trapped Officer B between the vehicle and a wrought iron fence. Officer B instructed Subject 1 to stop his vehicle and show his hands, but Subject 1 continued to drive forward. Officer B heard one gunshot and the Jeep came to a stop. Officer B stated that Subject 1 was then taken into custody.

Officer A, related to the Roundtable panel essentially the same information as Officer C and Officer B. Officer A stated that he observed Officer B approach Subject 1 Jeep on the driver's side. Officer A indicated that he then approached the passenger's side of the Jeep with Officer C. Officer A related that Officer B opened the driver's side door and attempted to pull Subject 1 out of the Jeep. Officer A stated that Subject 1 then accelerated and he could see and hear the driver's side door striking the wrought iron fence. Officer A was able to see through the open passenger's side window and observed Officer B trapped between the car and fence. Officer A indicated that the Jeep continued forward and he lost sight of Officer B and thought Officer B was "scooped" under the Jeep. Officer A related that he discharged his firearm once at Subject 1 through the open

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1030846 / U #09-42

passenger's window. Officer A stated that the Jeep then came to a stop and Subject 1 was taken into custody.

In a statement with IPRA, Witness 1, related that he was inside a 1st floor apartment at 1XXX S. Sacramento with Witness 2 and Witness 3. Witness 1 stated that he heard voices outside yelling, "Stop! Halt! Police! Halt!" Witness 1 looked out the picture window that faces towards the alley and saw a grey Jeep driving east through the alley with a black male uniformed police officer, with a black trench coat on the driver's side. Witness 1 believed that the Jeep's driver side door was open. Witness 1 believed that the officer was trapped between the Jeep and the wrought iron fence. Witness 1 related that appeared the police officer was holding on to the Jeep and his back was touching the fence. Witness 1 stated that the Jeep continued forward and he heard one gunshot. Witness 1 heard someone yell, "Shots fired! Shots fired!" Witness 1 then observed the driver of the Jeep on the ground and police officers handcuffing him. Witness 1 did not observe who fired their weapon. Witness 1 indicated that he was concentrating on the officer that was about to be "crushed" between the car and fence.

In a statement with IPRA, Witness 2, related that he was working in a building adjacent to the alley where the incident occurred. Witness 2 observed the incident through a glass picture window. Witness 2 stated that a gray Jeep Cherokee entered the alley followed by a Chicago Police vehicle (emergency lights activated). Witness 2 indicated that the officers exited their vehicles and approached the gray Jeep. The officers were yelling at the driver of the Jeep to stop. Witness 2 stated that one of the officers approached the Jeep on the driver's side. Witness 2 related that the driver's side door opened and the Jeep started to move forward. Witness 2 believed that the officer was being "smashed" between the vehicle and fence. Witness 2 stated that the Jeep moved forward approximately 20 feet before it came to a stop. Witness 2 heard the officers yelling for the driver to stop. Witness 2 heard one gun shot and then observed the driver of the Jeep, face down on the ground. Witness 2 was unsure how the driver got to the ground.

In a statement with IPRA, Witness 3, related that he was in a building and he believed the address was 1XXX S. Sacramento. Witness 3 was looking out a picture window and observed a silver SUV drive by with three Chicago Police Officer's running behind it. Witness 3 stated that two police officers were on the passenger's side and one police officer was on the driver's side. Witness 3 indicated that the officer on the driver's side looked like he was "struggling" with the driver of the SUV. Witness 3 heard the officers yelling for the driver of the SUV to stop his vehicle. Witness 3 related that officer on the driver's side appeared to get "pinned" between the vehicle and a wrought iron fence. Witness 3 heard one gunshot and thought the officer on the driver's side was shot. Witness 3 then realized that the driver of the SUV had been shot. Witness 3 did not observe who shot their firearm. Witness 3 observed the SUV driver on the ground and two officers assisting him. Witness 3 stated that he saw the incident clearly and believed that the officer was pinned against the SUV and the fence.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1030846 / U #09-42

Attempts to Contact 911 Caller, “[First Name]” were met with negative results. OEMC Event Query documented that on 09 October 2009, at approximately 1642 hours, a request was made to speak with a supervisor at 1XXX S. Sacramento. “[First Name]” stated that a police officer pulled over a male in a truck and told the male to put his hands out the window. “[First Name]” related that the male put his hands out the window and the police shot him anyways. The Query did not list a last name for [First Name] and did not provide an address or telephone number. An attempt to locate “[First Name]” at the listed address on 13 October 2009 was met with negative results. 1XXX S. Sacramento was not found. The closest address found was 1XXX S. Sacramento. Investigators left business cards in the area of the alleged 911 call and asked around for anyone named “[First Name].” There did not appear to be anyone named “[First Name]” who resided in the area. Further, related departmental reports indicated that CPD Sergeant A responded to the call for a supervisor and was unable to locate the caller. CPD Sergeant A indicated that 1XXX S. Sacramento was a vacant lot.

Attempts to Contact possible Witness 4 were met with negative results. Witness 4 refused to cooperate with detectives at the scene of the incident. Several calls were placed to Witness 4 and were not answered or returned.

Attempts to Interview, Subject 1 were met with negative results. On 15 October 2009 at 1145 hours, IPRA Investigator 1 made a personal visit to Mount Sinai Hospital to conduct an interview with Subject 1. IPRA Investigator 1 spoke with Doctor A who related that Subject 1 was in critical but stable condition. IPRA Investigator 1 identified himself to Subject 1 and asked if he wished to provide IPRA with a statement. IPRA Investigator 1 advised Subject 1 of his rights and Subject 1 related that he did not want to make a statement. IPRA Investigator 1 provided Subject 1 a letter about the investigation from IPRA and a business card. IPRA Investigator 1 indicated that Cook County Corrections Officer A was present in the room when he attempted to speak with Subject 1.

A **certified letter** was mailed to Subject 1 on 14 October 2009. Subject 1 failed to respond to the letter.

A related Civil Suit, Subject 1 VS City of Chicago and Officer A, (10 L 3639) was located. Attorney A, of the City of Chicago Law Department related that the case was non-suited and closed in August 2011. The initial suit documented that Subject 1 vehicle was in park at the time of the shooting and that Officer A shot him without justification. Attorney A related that no dispositions were ever taken and that the attorney’s for Subject 1 were unable to locate him.

The related **Department Reports** documented essentially the same information that was provided during the round table panel. In addition the reports relate that Officer A, knowing Subject 1 actions to be those of an assailant and believing Subject 1’s actions would likely cause death or serious injury to Officer B, utilized the force necessary to affect the arrest of Subject 1 for Attempted First Degree Murder of a Police Officer. The

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1030846 / U #09-42

reports indicate that Subject 1 was transported to Mount Sinai Hospital by Chicago Fire Department Ambulance #33 and was treated at the hospital by Doctor B.

Tactical Response Report from Officer A, documented that Subject 1 failed to follow verbal direction; then used his vehicle as a deadly weapon against Officer B in an attempt to defeat arrest. Officer A responded with member presence, verbal commands and fired his weapon; striking Subject 1. Watch Commander A concluded that the officer's actions conformed to Department Policy on Use of Force.

Tactical Response Report from Officer B documented that Subject 1 failed to follow verbal direction, pulled away and caused an imminent threat of battery by using his vehicle as a weapon which would likely cause death or great bodily harm. Officer B responded with member presence, verbal commands and attempted to pull Subject 1 out of his vehicle. Watch Commander A concluded that the officer's actions conformed to Department Policy on Use of Force.

Officers Battery Report for Officer B documented that he received a physical battery from being struck with a vehicle. Officer B received non-fatal, minor injuries from the attack.

Evidence Technician photographs taken by Officer D and Officer E, Beat 5437 depict photographs of the scene, including the vehicles involved, shell casing, damage to vehicles and damage to the wrought iron fence. A Crime Scene Video was also obtained. Beat 5411 responded to Mount Sinai Hospital and Subject 1 was being taken into surgery.

A search of **Police Observation Devices (PODS)** documented that POD #243 located at 1157 S. Sacramento was operational and in the vicinity of the incident. The POD recording on 09 October 2009 started at 1600 hours and concluded at 1830 hours. The video documented the silver Jeep Cherokee stopped in the alley and Officers standing in the area. It showed several CPD Units traveling to the scene with their emergency equipment on. At 1636 hours the video shows Subject 1 lying on the ground near the Jeep Cherokee. At 1637 hours, Chicago Fire Department personnel are observed on scene and then departing with Subject 1. Normal crime scene investigation is observed throughout the remainder of the video. POD #477 and #742 were also ordered and failed to depict any police activity relevant to the incident.

A **Canvass** in the area of the incident on 13 October 2009 at approximately 1630 hours was met with negative results.

Chicago Fire Department Ambulance Report indicated that Subject 1 was transported to Mount Sinai Medical Center by CFD #33. The report documented that Subject 1 suffered one gun shot wound to his right flank. The report related that Subject 1 was unable to move both legs from his thighs down. The report further documented that Subject 1 may be under the influence of a controlled substance.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1030846 / U #09-42

Medical Records for Subject 1 from Mount Sinai Medical Center documented that Subject 1 was admitted on 09 October 2009 for a gun shot wound to his lower extremity. The documents listed Subject 1 address as 2XXX W. Fulton, Chicago, IL 60612 and his date of birth as XX November 19XX. Upon admission into the hospitals, Subject 1 was suffering from spinal fractures at L4-L5 with bullet and bone fragments. Subject 1's colon was perforated and leaking. Subject 1 was taken to the operating room for emergency exploratory laparotomy by Doctor C. The surgery determined that Subject 1's suffered injuries to his spine, colon and liver. Subject 1 was treated for his injuries and infection for and subsequently released to Oak Forest Rehab on 27 October 2009.

The related **O.E.M.C Event Query's** documented essentially the same information as the roundtable panel and department reports. Event was from a caller named "[First Name]" located at 1XXX S. Sacramento Blvd, who stated the police had shot someone for no reason. 1XXX S. Sacramento is vacant land and "[First Name]" was never located.

Crime Scene Processing Report, documented items inventoried and photographs obtained by the Evidence Technicians at the scene. The report also documented that Officer A's firearm was recovered and swabbed at Area 4 Detective Division in front of CPD Commander A at 2010 hours on the date of the incident. The report was submitted by Officer D on 09 October 2009 at 2258 hours.

Crime Scene Processing Report, documented that Evidence Technician 1 and Evidence Technician2 responded to Mount Sinai Hospital and attempted to obtain photographs and fingerprints of Subject 1. The Technician's spoke with Doctor D who related that Subject 1 was in unstable condition. Doctor D would not allow the Technicians to photograph or take fingerprints of Subject 1 until he was stable. The Technicians related that information to CPD Lieutenant A in the 011th District who stated he would send Technicians back when Subject 1 was stable. It appeared that no photographs of Subject 1 were ever obtained relative to this investigation.

Property Inventory sheet #11812918 documented one Glock Model 21, .45 Caliber Semi-automatic firearm, Serial #LTH243 with a black finish, a magazine and 13 Winchester .45 caliber live rounds. **#1181287** documented one expended shell casing, "Winchester .45 caliber." **#11812994** documented broken vehicle parts from CPD vehicle #7793. **#11813005** documented broken vehicle parts from CPD vehicle #7793. **#11813010** documented swabs with blood from the front driver's seat of the 1999 Jeep Cherokee with IL license AXXXXXX. **#11813012 and #11813037** documented scrapings from the exterior driver's side door of the 1999 Jeep Cherokee with IL license AXXXXXX. **#11813040** documented swabs collected from the Glock Model 21 firearm. **#11813043 and 11813050** documented personal property recovered from Subject 1.

Illinois State Police Forensic Science Laboratory Report documented under Lab Case that Officer A's firearm was tested and in proper working condition. The unfired cartridges were analyzed for caliber and type only. Further, Scrapings recovered on the scene from the exterior of the 1999 Jeep Cherokee were tested against scrapings found on the scene on the black wrought iron fence. The black paint recovered from the Jeep was

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1030846 / U #09-42

found to be similar in color and chemical composition to the black paint found on the fence, therefore the paint from the Jeep could have originated from the fence.

An **Illinois Traffic Crash Report**, documented that Subject 1 was driving a 1999 Jeep Carryall with IL registration AXXXXXX and struck the front passenger's side of a 2006 Ford Crown Victoria with IL registration M135844, which was being driven by Officer B. The report indicated that Subject 1 continued eastbound from the crash location until the events documented occurred. The report further related that the owner of the 1999 Jeep was [Name Withheld], 2XXX W. Fulton, Chicago.

The **Chicago Police Department Traffic Pursuit Report**, dated 09 October 2009, documented that Beat 4450A, Officer C and Officer A initiated a pursuit of Subject 1, who was driving a silver 1999 Jeep Carryall with IL registration AXXXXXX. The report related that the pursuit lasted approximately one minute and came to an end when Subject 1 Jeep struck Officer B's #5921 squad car (Beat 1192). The report documented that the pursuit traveled approximately four blocks and top speeds were near thirty-five miles per hour.

In a **statement provided to IPRA, Officer B**, related in essence the same information he provided to the Roundtable Panel. Officer B added that he was in full uniform in a marked Chicago Police squad car on the morning of the incident and was writing rush hour parking tickets on Roosevelt Road. Officer B heard an O.E.M.C. call of a man in a car with a gun. Officer B observed the vehicle driving through vacant lots and on the sidewalk near Sacramento. Officer B related that he cut the vehicle off near an alley at 2958 Roosevelt. Officer B stated that he exited his patrol vehicle and ran up to the Jeep and tried to open the driver's side door. Officer B indicated that he opened the door and attempted to pull Subject 1 out of the vehicle. Officer B stated that the Jeep accelerated and drove forward, which trapped him between the Jeep and a wrought iron fence. Officer B heard an Officer on the passenger's side of the vehicle yelling for Subject 1 to stop or he was going to shoot. Officer B heard one gunshot and then the vehicle came to a stop. Officer B stated that his bullet proof vest helped lessen the injuries he would have sustained from the fence. Officer B was transported to Cook County Hospital and released a short time later. Officer B related that the actions of Subject 1 caused him to get shot and if he would have stopped he would not have gotten shot.

In a **statement provided to IPRA, Officer C** related in essence the same information he provided to the Roundtable Panel. Officer C added that the only part he left out of his roundtable statement was his perspective on when he approached Subject 1's vehicle. On the day of the incident Officer C was in full uniform and working in a fully marked Chicago Police squad car. Officer C indicated that he observed an Officer struggling opening the driver's side door and struggling with the driver of the vehicle. Officer C stated that Subject 1's Jeep "jumped" forward approximately ten feet and he observed Officer B being dragged or pinned against the fence and yelling. Officer C related that he drew his weapon from his holster, pointed it at Subject 1's and gave him verbal commands. Officer C stated that Subject 1's put his foot on the brake and raised his hands. Officer C indicated that his partner, Officer A arrived at the window, at which

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1030846 / U #09-42

time the car again jerked forward and Subject 1's placed his hands back on the steering wheel. Officer C stated that Officer A then fired one shot at Subject 1's, which struck him in the abdomen area.

In a **statement provided to IPRA, Officer A**, related in essence the same information he provided to the Roundtable Panel. Officer A added that he carries a Glock 21, .45 caliber handgun while on-duty. Officer A indicated that he was qualified with his handgun, his handgun was registered with the City of Chicago and he had a current Illinois Firearm Owners Identification Card at the time of the incident. Officer A related essentially the same information as Officer B and Officer C in regards to the initial contact with Subject 1's. Officer A indicated that he could hear the metal from the Jeep's door "clanking" the wrought iron fence as it hit it. Officer A related that when the Jeep began to move forward again he fired his weapon at Subject 1's hip because he was afraid of shooting Officer B. Officer A stated that shooting downward would lessen the chance of the bullet passing through Subject 1's and striking Officer B. Officer A related that other officers pulled Subject 1's from the vehicle and handcuffed him on the ground. Officer A stated that he did not have any other options to stop the threat other than deadly force in this situation. Officer A believed that Officer B's life was in jeopardy of death or great bodily harm when he fired his handgun.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1030846 / U #09-42

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A was **JUSTIFIED** and in compliance with Department policy and State statutes. According to the Chicago Police Department's General Order No. 02-08-03, III:

“A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or
2. to prevent an arrest from being defeated by resistance or escape and the sworn member believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involved the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.”

Officers A and C responded to the area of Fullerton and Troy for a disturbance call and observed several subjects leaving the area. Officers A and C spoke with several male subjects who related that the fight was over and that there would be no further problems. Officers A and C observed a male subject, later identified as the victim/Subject 1 being walked away from the area by an unknown black male. Subject 1 and the black male walked to a Jeep that was parked on the south side of Fillmore. Subject 1 entered the Jeep in the driver's position. Officers A and C asked Subject 1 if he was okay through the open car window and Subject 1 stated, “Yes.” Subject 1 then placed the Jeep into reverse and drove backwards down Fillmore at a high rate of speed. Subject 1 reached the next intersection and turned the Jeep around, drove forward and continued down Fillmore. Officers A and C entered their squad car and followed Subject 1 in the Jeep. Beat 1192, Officer B became the primary chase vehicle and attempted to cut Subject 1 Jeep off with his squad car near the location of Sacramento and Roosevelt. Subject 1 turned down the east alley off of Roosevelt and struck the front passengers side fender of Officer B's squad car. Subject 1 stopped the Jeep in the alley. Officer B exited his squad car and ran up to the drivers side door of the Jeep. Officer B opened the driver's side door and attempted to pull Subject 1 out of the vehicle. Subject 1 accelerated the Jeep, which trapped Officer B between the Jeep and a wrought iron fence. Evidence photographs from the scene of the incident documented the contact between the Jeep and the wrought iron fence, which was consistent with the Officer's account of what occurred. Officers A and C arrived at the location and approached the Jeep on the passenger's side. The Jeep's front passenger's window was rolled down. Officer A, fearing that Officer B would be crushed and dragged under the Jeep, fired one shot through the open window, which struck Subject 1 in the right hip.

The Officers' actions were in accordance with the requirements of the Department's Use of Deadly Force policy. Officer A's reactions were solely based on the actions of Subject

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1030846 / U #09-42

1. Subject 1 drove his vehicle in a manner that caused an imminent threat of battery by using his vehicle as a weapon which would likely cause death or great bodily harm to Officer B. Officer A was reasonably in fear for Officer B's life which was in fact in imminent danger as he became trapped in between Subject 1's vehicle and the wrought iron fence.