

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1031084 / U #09-044

**INVESTIGATION**

**NUMBER:** Log # 1031084 / U# 09-044

**OFFICER**

**INVOLVED #1:** “Officer A” (Chicago Police Officer); Male/White; 34 years old;  
On Duty; Full Uniform; Year of Appointment – 2001

**OFFICER #1’S**

**INJURIES:** None

**OFFICER**

**INVOLVED #2** “Officer B” (Chicago Police Officer); Male/White; 34 years old;  
On Duty; In Uniform; Year of Appointment – 2005.

**OFFICERS/**

**INJURIES:** None

**SUBJECT/**

**OFFENDER:** “Subject 1”; Male/Black; 41 years old

**SUBJECTS**

**INJURIES:** Two gunshot wounds to the right buttocks; two-three gunshot wounds to  
the left leg/knee Northwestern Hospital

**DATE/TIME:** 17 October 2009, 2244 hours

**LOCATION:** XXXX S. Marquette Avenue – on the street – Beat 423

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**SUMMARY OF INCIDENT:**

On 17 October 2009 at approximately 2224 hours, Unit 253, Beat 4214C, Officer A and Officer B, while on patrol traveling north on the 8200 block of South Marquette Avenue. They observed several individuals running south on the west side sidewalk. Two of the individuals ran to a front porch at XXXX S. Marquette Avenue. Officer B, the driver, observed a male black now known as Subject 1 with his right arm extended forward through a wrought iron fence holding a gun pointed at the people on the porch. Officer B informed Officer A that Subject 1 had a gun. Officer B stopped the vehicle, exited and announced his office and ordered Subject 1 to drop the gun. Officer A moved to the front of the vehicle and east of Officer B. Subject 1 began to walk slowly north on Marquette Avenue away from the officers. Suddenly, Subject 1 turned toward the officers and fired one round at them. Both officers returned fired and Subject 1 ran northbound on Marquette Avenue. Subject 1 extended his arm behind him and fired another round at the officers. Officer A returned fire. Subject 1 ran to XXXX S. Marquette Avenue where he fell to the ground in a sitting position. Both officers heard several click sounds then Officer A observed Subject 1 throw the weapon underneath the stairs of XXXX S. Marquette Avenue. Subject 1 then got to his feet and ran westbound along a gangway south of XXXX S. Marquette Avenue. Officer B gave chase while Officer A recovered the weapon from underneath the stairs. Officer B apprehended Subject 1 in the rear yard of XXXX S. Marquette Avenue.

Officer A moved Subject 1's weapon by placing it in his pocket then secured it in an envelope and placed in the trunk of his vehicle. The weapon was removed from the recovered location due to a crowd of people which had gathered. Chicago Fire Department personnel, Ambulance # 55, transported Subject 1 to Northwestern Hospital. Subject 1 sustained two gunshot wounds to the right shoulder, two gunshot wounds to the right upper hip and (2-3) gunshot wounds to the left knee and left leg.

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**INVESTIGATION:**

On 18 October 2009, a **Roundtable Panel** was conducted relative to the officer involved shooting under investigation. Four responding detectives, one officer in ambulance and two involved officers appeared before the panel and CPD Detective 1 began the presentation with the summary of incident.

**Witness Officer C**, related to the Roundtable panel that he accompanied Subject 1 in the ambulance to the hospital. While in the ambulance, Subject 1 stated, "I don't know why the police shot me, because I didn't point the weapon at them."

**Responding CPD Detective 2, Area Two**, related to the Roundtable panel that during a canvass he spoke with Witness 1, XXXX S. Marquette. Witness 1 related that he saw a weapon in Subject 1's back pocket earlier in the day. Subject 1 had informed him that he carried the weapon for protection. Witness 1 did not witness the incident.

**Responding CPD Detective 3, Area Two**, related to the Roundtable panel that during a canvass he spoke with Witness 2. Witness 2 related that he heard several gunshots and looked out his door and observed a police officer pull a weapon from under the stairs at XXXX S. Marquette. Witness 2 did not witness the police involved shooting.

**Responding CPD Detective 4, Area Two**, related to the Roundtable panel that during a canvass he spoke with Witness 3. Witness 3 related that he was not a victim of a robbery, no one pointed a gun at him, and no one attempted to enter his residence. Witness 3 related that he heard a voice yell, "Halt police" and saw a person run and then he heard shots. Witness 3 did not cooperate further.

**Responding CPD Detective 5, Area Two**, related to the Roundtable panel that he responded to Northwestern Hospital and spoke to Subject 1. Subject 1 related, "He did not know why the officers shot him." Subject 1 further related he did not have a weapon.

**Involved Officer B**, related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Officer B related that he and Officer A were working patrol in the 004<sup>th</sup> District. Officer B was driving north on the 8200 block of South Marquette when he observed several people running south. Two individuals ran and opened the wrought iron gate and slammed the gate behind them at XXXX S. Marquette Avenue. Officer B then observed Subject 1 running behind the individuals on the west side of Marquette Avenue. As Subject 1 reached XXXX S. Marquette he extended his arm through the fence and pointed a weapon at the individuals on the porch. Officer B told Officer A that Subject 1 had a gun. Officer B related that he stopped the vehicle, south of XXXX S. Marquette Avenue and exited the

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vehicle with his weapon drawn and ordered Subject 1 to drop his weapon. Subject 1 turned and walked slowly north on Marquette Avenue. Subject 1 then stopped, turned and fired at Officer B. Officer B returned fire. Subject 1 then fled north on Marquette Avenue and as he ran he extended his shooting arm backwards and fired at Officer B. Officer B and Officer A returned fire. Subject 1 ran towards a gangway at XXXX – XXXX S. Marquette Avenue and fell to the ground and placed himself in a sitting position. Officer B heard what he described as “several clicking sounds.” Officer A yelled to him that Subject 1 threw the weapon under the stairs at XXXX S. Marquette Avenue. Subject 1 got on his feet and fled along the gangway of XXXX S. Marquette Avenue. Officer B related that he gave chase and apprehended Subject 1 in the rear of XXXX S. Marquette Avenue. Officer B handcuffed Subject 1 and notified 911.

**Involved Officer A**, related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Officer A related that he and Officer B were on patrol in the 004<sup>th</sup> District, traveling north on the 8200 block of South Marquette Avenue. Officer A related that he observed people running into the front yard of XXXX S. Marquette Avenue and closed the gate. Officer B informed him that a male black now known as Subject 1, standing at the gate and had a gun in his hand. Officer B stopped the vehicle a little south of XXXX S. Marquette Avenue. Officer A related that he and Officer B exited the vehicle with their weapons drawn. Officer A moved to the front of the vehicle, east of Officer B. Officer B announced his office and ordered Subject 1 to drop his weapon. Subject 1 began walking north on Marquette Avenue then suddenly stopped and pointed his weapon at Officer B and fired. Officer A and Officer B returned fire. Subject 1 fled on foot and as he ran, he extended his arm backwards and fired a second time. Officer A returned fire. Subject 1 then stumbled to the ground in a sitting position in front of XXXX-XXXX S. Marquette Avenue. Officer A heard what he described as a “clicking” noise as if Subject 1 was attempting to fire his weapon again. Officer A then observed Subject 1 throw the weapon underneath the stairs of XXXX S. Marquette Avenue. Subject 1 got to his feet and fled along the gangway of XXXX S. Marquette Avenue; Officer B chased him and apprehended him in the rear of XXXX S. Marquette Avenue. Officer A observed a crowd begin to emerge in the area and for safety issues Officer A recovered the weapon from under the stairs, placing it in his pocket and then placed the weapon in an envelope and placed it in the trunk of the police vehicle. Officer A and Officer B made notification to 911 of “Shots fired at police and by police.”

On 18 October 2009 at approximately 2350 hours, the IPRA, attempted to interview Subject 1 at Northwestern Hospital Trauma unit. Subject 1 spoke to CPD Detective 5 and then declined to speak to IPRA Investigator A stating, “He did not want to speak with anyone who isn’t on my side.” An IPRA business card was given to Nurse A who placed it in Subject 1’s personal property bag. Subject 1 refused to sign any documents but provided his Aunt’s telephone number. IPRA Investigator A spoke with the attending physician, Doctor A, who related that Subject 1 sustained two gunshot wounds to the back of his right shoulder and two gunshot wounds in his lower back, in the right hip area. Doctor A explained that the four wounds were through and through gunshot wounds with no lodged bullets. Doctor A could not determine which gunshots were the entry or exit wounds. Doctor A related that Subject 1 also sustained three gunshot wounds to his left knee area resulting in one lodged bullet under the knee joint.

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Doctor A explained that Subject 1 would not receive surgery in the near future and would be admitted for observation pending the possible application of a splint to his left knee. IPRA Investigator A documented that CPD Detective 5 left with Subject 1's clothing in order to submit it as evidence. IPRA Investigator A documented that Officer D administered a Gunshot Residue Test to Subject 1's hands.

**Subject 1's Arrest Report** revealed that he was charged with (2) counts of Attempted Murder-1<sup>st</sup> Degree, (2) Counts Aggravated Assault of Peace Officers, UUW and Possession of Firearm. The report states that Subject 1 was placed in custody as an offender who pointed and fired a firearm at Officers A and B. Officers A and B, in defense of their lives, fired their weapons at Subject 1 striking him. Subject 1 was transported to Northwestern Hospital via CFD Ambulance. **Tactical Response Reports** and **Battery Reports** were submitted by the involved officers.

**The General Offense Case Report & Case Supplementary Report** (RD# HR-593-788) revealed that Subject 1 was charged with Aggravated Assault to Police Officers A and B and civilian victim, Witness 3. The report revealed that Officers A and B observed individuals running and then observed Subject 1 with a gun. The officers observed Subject 1 pointing a gun at the individual on a porch. Officers ordered Subject 1 to drop the weapon. Subject 1 shot at the officers, fled and again fired at the officers before being shot by the officers. Subject 1 was placed in custody and transported to the hospital by ambulance. The report revealed that victim Witness 3, denied he was a victim of a robbery and refused to cooperate with the investigation. The report revealed a canvass was conducted and individuals heard gunshots, but no one witnessed the shooting. The case was classified as CLEAR CLOSED (ARREST AND PROSECUTION).

The report revealed that items were inventoried including Subject 1's weapon. A request was made to the Illinois State Police Forensic Services on the Gun Shot Residue Test results, request for testing of the officers' weapons, Subject 1's weapon, and testing on the fired bullets.

The **Chicago Fire Department (CFD) Ambulance Record** indicates that EMT's were dispatched 17 October 2009 at 2225 hours, to XXXX S. Marquette Avenue, and they were at the patients, Subject 1's side at 2240 hours, and they departed the scene to Northwestern Hospital at 2252 hours notifying the hospital. Paramedics found Subject 1, a gunshot victim, with gunshots to the shoulder and leg. Paramedics reported that Subject 1 did not want oxygen therapy. Subject 1 attempted to spit at the paramedics. A mask was placed on Subject 1 to avoid fluid contact.

The **Office of Emergency Management and Communications (OEMC)** Event Queries for 17 Oct 2009, at approximately 22:23 hours, and audio transmissions provided information consistent with the Summary of Incident. It is documented in the report that a male identified as Subject 1 was trying to shoot three people. Officers reported shots fired at them and they

returned fire, shots fired by police. The report revealed Subject 1 in custody, an ambulance requested along with an Evidence Technician.

**The Crime Scene Processing Report and Evidence Technician Photographs, Sketch and Video Tape** depicts the location of the incident and the locations of recovered evidence. Also, photographs of Subject 1 were taken at Northwestern Hospital. Subject 1's weapon, a Llama Extra, 9MM, blue steel handgun S/N 27242, was inventoried under Property Inventory No. 11821260. Officer B and Officer A weapon's were inventoried, both Sig Sauer, Mod # 220 and Mod # 225, 45 Caliber, black steel, inventoried under Property Inventory No. 11821156 and 11821209. The expended shell casings fired from the weapons of Officers A and B were photographed under evidence markers M1-M15, M21, and recovered from the street, curb, parkway, walkway, and driveway.

The **Northwestern Hospital Medical Records** document that Subject 1 arrived at the hospital by ambulance accompanied by police at 2315 hours on 17 October 2009. The document revealed that Subject 1 was yelling, "Take these cuffs off me." Subject 1 was sitting up with gunshot wounds to the shoulder and leg/knee. Subject 1 was admitted and placed on a cardiac monitor. The report revealed Subject 1 was in stable condition. The report revealed Subject 1 had multiple gunshot wounds, two entry wounds and two exit wounds and a bullet lodged in the left femur that was solidly impacted and unable to be removed. Subject 1's medical history revealed that he had sustained a gunshot wound to the back/abdomen in 1999. Subject 1 was discharged to Cook County Jail Infirmary on 20 October 2009.

A report from the **Illinois State Police, Division of Forensic Services** dated 17 November 2009 indicates that Officer B and Officer A weapon, Sauer, Mod # 220 and Mod # 225, 45 Caliber were examined and found to be in good firing condition and test fired. ISP Report dated 26 August 2009, indicates that Subject 1's weapon, a Llama Extra, 9MM was examined and found to be in firing condition and test fired. The report revealed that the fired cartridge from Subject 1's weapon, could not be identified or eliminated as having been fired. The Illinois State Police GSR Tests conducted on Subject 1 revealed that Subject 1 may not have discharged a firearm with either hand. If he had, the particles were removed by activity that was not deposited or detected.

**Canvasses** were conducted on 18 October 2009, in the vicinity of XXXX S. Marquette Avenue. No additional witnesses were identified.

In a letter sent to IPRA, **Complainant/Victim, Subject 1**, dated 25 October 2009, wrote that on 17 October 2009, he was sitting on the bottom stairs of XXXX S. Marquette Avenue. Subject 1 wrote that Chicago Police officers drove up and asked him to put his hands up. Subject 1 got up from the stairs and turned throwing a gun under the steps. Subject 1 then ran on the side of the apartment building when he felt his back and leg burning, causing him to fall down. Subject 1 wrote in his letter that the officer, not identified, that shot him and a sergeant, placed their feet on his back and neck. Subject 1 wrote that he heard the sergeant say to the officer, "Why didn't you kill this son of a bitch" and the officer responded, "I tried too." Subject 1 was

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then dragged by his feet to the alley. When the ambulance came, one of the officers placed his hands over Subject 1's face to smother him. Subject 1 wrote that officers wrote in their reports that he fired at them and the charges won't stick, because no gun powder was on either of his hands. Subject 1 also wrote that the police officer shot him for no reason and he wanted to file charges against him.

In **Civil Suit # 10 CV 1952**, which was filed 08 April 2010, by **Complainant/Victim, Subject 1** (Pro Se), alleged that on 17 October 2009, Officer B and Officer A, exited their unmarked squad car with their weapons and aimed towards Subject 1's head. Subject 1 alleged that he ran and Officer B and Officer A opened fire and shooting him in the back and leg. Subject 1 alleged that he never had any weapon. Subject 1 is suing for punitive damage for three million dollars, compensatory damage of two million dollars and request litigation cost.

In a statement with IPRA **Complainant/Victim, Subject 1**, dated 07 February 2011. Subject 1 related that he did not write the letter to IPRA dated 25 October 2009. Subject 1 related that on the date of the incident he was standing on the sidewalk, three houses down from XXXX S. Marquette Avenue, talking to his friend "Witness 3" who was behind a gate asking for a cigarette. Subject 1 related that someone yelled, "Gun" so he took off running towards the gangway of XXXX S. Marquette Avenue. Subject 1 related when he turned in the gangway he was shot on the left leg, two times and he fell to the ground and balled up. Subject 1 related that while on the ground he was shot two more times in the back. Subject 1 related that an officer yelled, "Show me your hands." Subject 1 related that his keys and cell phone fell out of his hands at this time. The officer asked, "Where is the gun?" Subject 1 denied he had a gun. Subject 1 related that the officers handcuffed him and lifted him off the ground and took him to the back of the house. While waiting for the ambulance, a police car came to the alley and an officer who approached was referred to as "Sarge." Subject 1 related that "Sarge" grabbed him by the neck and placed a knee on Subject 1's head. Subject 1 related that "Sarge" asked, "Where was the gun?" Subject 1 denied he had a gun and "Sarge" instructed the officers to search for the gun. Subject 1 related that he heard an officer say that he found a gun under the front stairs. Subject 1 related that he could not provide the descriptions of the officers or "Sarge."

In a statement with IPRA on 18 February 2011, **Witness 3** related that on 17 October 2009, he and Subject 1 were talking about cigarette paper as he walked to his residence. Witness 3 related that he went on his porch and Subject 1 walked north towards 82<sup>nd</sup> Street. Witness 3 related that officers were cruising down the street then he heard officers yell, "Halt." Witness 3 then heard gunshots and the officers talking on the radio. Witness 3 related that the officers were in uniform and that he knows the officers from the neighborhood. Witness 3 did not witness the shooting between the officers and Subject 1 nor does he recall how many gunshots he heard. Witness 3 related that he did not have any previous altercation with Subject 1. Witness 3 related that he and Subject 1 have been friends for years.

To/From Subject report from IPRA Investigator B, related that on 22 October 2009, she made contact and attempted to interview **Witness 1**. Witness 1 related that on 17 October 2009, in the afternoon, he observed his neighbor Subject 1, with a weapon tucked in the back of his pants. Witness 1 related that he heard shots and went outside and saw the police. Witness 1 related that he did not witness the police involved shooting and the arrest of Subject 1.

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In a statement to IPRA on 14 May 2013, the Accused officer, **Officer A**, provided an account of the incident that was consistent with the Summary of Incident, related Department Reports, and the account he provided to the Roundtable panel. On the date of the incident, at approximately 2244 hours, Officer A stated that he was working with Officer B in full uniform in a marked squad car. Officer A added that he shot at Subject 1 after Subject 1 shot at Officer B and in his direction. Officer A then observed Subject 1 in a seated position and throw the gun underneath some stairs before getting up and fleeing on foot. Officer A related that he informed Officer B that Subject 1 threw the gun underneath the stairs and fled on foot. Officer B related that he holstered his weapon and chased after Subject 1. A crowd began to gather, so Officer A secured Subject 1's weapon and proceeded to assist Officer B. Officer A related that notification of the shots fired at police and shots fired by police was made over the radio and a request for an ambulance was made. Officer A related that his sergeant, Officer E, arrived on the scene and spoke with him about what had happened. Officer A also related that Subject 1 was already in the ambulance during his conversation with Sergeant Costello. Officer A related that he did not hear Sergeant Costello say anything to Subject 1 while he was on the scene. Officer A denied that he fired at Subject 1 once he was on the ground and unarmed.

In a statement to IPRA on 14 May 2013, the Accused officer, **Officer B**, provided an account of the incident that was consistent with the Summary of Incident, related Department Reports, and the account he provided to the Roundtable panel. Officer B reiterated the incident as did Officer A. Officer B related that Subject 1 shot at him causing him to be in fear of this life so he returned fire, shooting at Subject 1 nine times. Officer B related that Subject 1 ran and fell slightly before going into a gangway. Officer B related that he stopped and reloaded his weapon. Officer B related that he heard a clicking sound coming from where Subject 1 was located and could see Subject 1 pulling the trigger of the gun, but no bullets were coming out. Officer B related that he was hoping Subject 1 would not clear the jam in the gun or reload because he could kill him. Officer B related that Officer A alerted him that Subject 1 threw the gun underneath the stairs and fled westbound. Officer B related he chased Subject 1 and observed Subject 1 rubbing dirt on his chest. Officer B related that he apprehended Subject 1 and made the notification of shots fired and requested EMS. Officer B related that Subject 1 rubbed the dirt on his hands and chest to rid his hands from gunshot residue. Officer B related that he shot at Subject 1 after Subject 1 shot at him while fleeing. Officer B related that his sergeant, Officer E arrived on the scene and he told him that Officer A had recovered the weapon. Officer B related that Sergeant Costello did not go over to or speak with Subject 1. Officer B denied he shot Subject 1 while he was unarmed and on the ground.

In a statement to IPRA on 04 June 2013, the Accused officer, (**Lieutenant**) **Officer E**, related that on 17 October 2009, he was a Sergeant assigned to Unit 253. Officer E related that he responded to a police involved shooting in the vicinity of XXXX S. Marquette Avenue. Upon arrival at the location, he observed Subject 1 on a stretcher and the paramedics were putting Subject 1 in the back of the ambulance which was parked in the alley. Officer E related that he did not approach and/or speak with Subject 1 at any time. Officer E related that he did not get close enough to observe what injuries Subject 1 had sustained. Officer E related that he then

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spoke to Officer B and Officer A regarding the circumstance of the shooting. Officer E denied the allegations made against him.

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**CONCLUSION:**

The reporting investigator recommends a finding of **EXONERATED** for Allegation # 1, against **Officer A and Officer B** in that they shot Subject 1 with justification. Officers A and B related that Subject 1 pointed a gun at Officer B and fired at him. Officer B, fearing for his life returned fire towards Subject 1. Officer A related that Subject 1 pointed a gun at Officer B and in his direction. Officer A fired at Subject 1.

Subject 1 became an assailant when he pointed and fired his gun at Officer B and at the direction of his partner, Officer A and in fear for their safety and his life of the partners using deadly force towards Subject 1 was in compliance with Department Policy. This investigation found that, based on the preponderance of evidence, the use of deadly force by Officer B and Officer A, was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order 02-08-03, III DEPARTMENT POLICY, A1 and A 2, a, b, c;

- A. "A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary.
1. to prevent death or great bodily harm to the sworn member or to another person, or:
  2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
    - a. has committed or has attempted to commit a forcible felony which 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 deadly weapon, or:
    - c. otherwise indicates that he or she will endanger human life or inflict great harm unless arrested without delay."

The reporting investigator recommends a finding of **UNFOUNDED** for Allegation # 2, against **Officer A and Officer B** in that they shot Subject 1 while he was on the ground and unarmed. Officer A observed Subject 1 throw the gun underneath the stairs and informed Officer B. Officer A holstered his weapon and recovered Subject 1's weapon. The recovered shell casings from Officers A and B's weapons were found on the street, curb, parkway, walkway, and driveway. None of the shell casings were found in the area where Subject 1 was taken into custody.

The allegations made by Subject 1 in a letter and in his civil suit and in his in-person interview are inconsistent with the evidence gathered in this investigation. The reporting investigator recommends this allegations be classified as Unfounded

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The reporting investigator recommends a finding of **UNFOUNDED** for Allegations # 1 & 2, against **Officer E** in that he grabbed Subject 1 by his neck, and placed a knee to his head. Officer E related that he responded to a police involved shooting in the vicinity of XXXX S. Marquette Avenue. Upon his arrival, he observed Subject 1 on a stretcher and the paramedics were putting in the back of the ambulance. Officers A and B made no mention of Officer E approaching Subject 1 or having any verbal conversation with Subject 1 at any time. Officer E related that upon his arrival at the scene, he spoke with Officers A and B who informed him that there was a gun recovered and that Officer A was in possession of that gun. Officer E also related that he observed Subject 1 on a stretcher being placed into an ambulance but did not approach him or speak with him at any time. Officer E denied the allegations made against him.