

INDEPENDENT POLICE REVIEW AUTHORITY

Log, # 1031792/U# 09-45

**INVESTIGATION**

**NUMBER:** Log# 1031792/U# 09-45

**OFFICERS**

**INVOLVED:** “Sergeant A” (Chicago Police Sergeant); Female/Black; 45 years old; On-Duty; In uniform; Year of Appointment – 1999

“Officer A” (Chicago Police Officer); Male/Black; 40 years old; On-Duty; In uniform; Year of Appointment – 1994

**OFFICERS’**

**INJURIES:** None reported

**SUBJECT:** “Subject 1”; Male/black; 44 years old

**SUBJECT**

**INJURIES:** Leg abrasion.

**INITIAL**

**INCIDENT:** Department members responded to a call of dog attack.

**DATE/TIME:** 12 November 2009, at 1530 hours

**LOCATION:** 6100 Block of S. Eberhart  
Beat 313

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### **SUMMARY OF INCIDENT:**

On 12 November 2009, at approximately 1530 hours, several calls were made to 911 in regards to a vicious dog in the area of XXXX S. Eberhart. Callers also related that the dog had attacked an unknown woman on the street.<sup>1</sup> Sergeant A responded to the scene and observed a pit bull attack several individuals. Officer A also responded to the scene and observed that the dog was loosely tied to a fence. Subsequently, the dog got loose and attacked two males, Witness 1 and Witness 2. As the dog pulled Witness 2 by his pant leg, Sergeant A tased the dog, but the taser had no effect. Officer A then fired four shots in a downward direction at the dog, striking the dog. However, after Officer A fired at the dog, Witness 1 told officers on the scene that he believed that a bullet had possibly struck him during the incident. Chicago Fire Department personnel arrived on the scene and treated Witness 1, who initially refused transport to the hospital. Witness 1 exited the ambulance and handed Sergeant A what appeared to be a piece of a bullet jacket. Sergeant A then turned the fragment over to Forensic Service Division personnel. Later in the evening, while still on the scene, Witness 1 requested medical attention and Bt 323 transported Witness 1 to University of Chicago Hospital.

### **INVESTIGATION:**

On 12 November 2009, at 2116 hours, Area Detectives convened a Roundtable at Area Two Headquarters. **Officer A** related an account consistent with facts submitted in Department reports. Officer A further related that he monitored a radio broadcast of a dog attacking citizens on Eberhart. Officer A drove to the scene to assist Sergeant A. Upon his arrival, Officer A observed the dog on the sidewalk. Officer A instructed people on the street to clear the area. In an attempt to block the dog's path, Officer A drove onto the west side of the sidewalk. Officer A exited his vehicle and observed that Sergeant A tased the dog with no effect. Two males working construction in the area attempted to restrain the dog with a rope and a 2-by-4 board. One of the males was able

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<sup>1</sup> Officers were unable to identify the woman on the street. The Chicago Fire Dept treated the woman, but no one obtained personal identifying information.

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to place a rope around the dog's hind legs, but the dog became enraged and attacked the male. Sergeant A deployed her taser a second time, but the taser was again ineffective and only made the dog more aggressive. Moments later, a person now known as Witness 2 exited the building and stated that he was familiar with the dog from the neighborhood and he could handle the dog. As Witness 2 approached the dog, it attacked him, causing him to fall to the ground. Officer A stood on the sidewalk approximately 2 ½ feet from the dog. Officer A again instructed people on the street, including Witness 2, to clear the area. Once the area was clear, Officer A discharged his weapon four times at the dog's stomach. (Att# 4)

**Sergeant A** related to the Roundtable panel that she was in the area of 6100 S. Eberhart when she heard a radio call about a dog attacking a woman. Once on location, Sergeant A exited her vehicle and observed three to four males struggling with a dog in an attempt to control it. Two of the males sat on the dog and two other males placed a 2-by-4 board across the dog's neck. One of the males attempted to tie a rope around the dog's hind legs, but the dog managed to get free. Another male on the scene attempted to calm the dog, but the dog attacked the male and grabbed his leg in response. Sergeant A deployed her taser, striking the dog, but it had no effect.<sup>2</sup> Officer A, who was standing to the right of Sergeant A and approximately two feet from the dog yelled, "Get back!", drew his weapon and fired at the dog. Witness 2 was able to move away from the dog before Sergeant A tased the dog and before Officer A discharged his weapon. Sergeant A related that she did not know the location of Witness 1 at the time of the shooting. (Att# 4)

**Witness 2** related to the Roundtable panel that he was at the rear of his residence, XXXX S. Eberhart, when he heard his wife yell, "Get the dog!" Witness 2 ran to the front of his residence and tied the dog up. The dog attempted to free itself so Witness 2 grabbed the dog by the neck and collar. Sergeant A drew her taser, and tased the dog without warning others. The taser was ineffective in that it failed to incapacitate and the dog became further enraged. The dog turned on Witness 2 and bit into his pant leg and

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<sup>2</sup> Sergeant A related in her Roundtable testimony that she did not give warning of the taser. She did not yell, "Taser"

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sock. Witness 2 jumped away from the dog and sprained his ankle. Officer A then shot the dog with his service weapon. Witness 2 was approximately four feet from the dog at the time of the shooting.

**Detective A** related to the Roundtable Panel that the victim, Witness 1, refused to provide an account to the Roundtable Panel. Detective A reported that, while on the scene, Witness 1 related that he was working on the second floor of XXXX S. Eberhart when he heard a commotion outside. Witness 1 looked outside and saw a crowd of people with a dog. He then went outside and heard a male officer ask if there was anyone who could control the dog. Witness 1 informed the officer that he would be able to place a leash on the dog and placed a leash around dog's neck. After doing so, Witness 1 heard four gunshots and said, "I'm hit." Witness 1 was transported to the hospital. While at the hospital, Doctor W informed Detective A that he could not determine if the wounds on Witness 1's right leg, above the knee, and on his right shin were the result of a gunshot or a dog bite. Witness 1 was treated and released. (Att# 4)

In an in-person interview on 12 November 2009, at 1730 hours at the University of Chicago Hospital, taken by IPRA Investigator A, the **victim, Witness 1** related in essence the account as he gave to Detective A. Witness 1 related that while working on the second floor of XXXX S. Eberhart, he heard loud voices yelling, "You don't have to shoot the dog" coming from the outside and in front of the building. Witness 1 looked out the front window and observed officers and neighbors on the street. He also observed a dog on the ground whose front legs and hind legs appeared to be tied together. Witness 1 observed a black male officer with his weapon drawn and pointed at the dog, and a black female officer pointing a taser at the dog. The officers were standing approximately 7-8 feet from the dog. The black male officer yelled, "Can anyone restrain this dog?" In response, Witness 1, who said he was familiar with the dog and thought the dog was friendly, came forward, took the dog by the collar with his right hand and hooked the leash to the collar. However, Witness 1 then heard several gunshots and Witness 1 then felt a "hot sting" on his leg above his knee. In response, Witness 1 dropped the leash and stumbled away. Witness 1 claimed that one bullet grazed him on the leg and another

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bullet was caught in his thermal underwear; Witness 1 gave the bullet to Sergeant A. Chicago Fire Department personnel arrived on the scene and treated Witness 1 on the scene. Although he refused to go to the hospital with EMS, Officers later transported Witness 1 to the University of Chicago Hospital for treatment. (Att# 5)

**Sergeant B**, Area Two Detectives related that **Witness 3** told him that, due to an inspection by the city on the building he was working on, he would not be able to provide a statement to the Roundtable panel. In an interview with Sergeant B, Witness 3 related that at the time of the incident, he was working inside a building on 6200 block of South Eberhart when he heard people yelling for help. Witness 3 went outside and observed people attempting to subdue a dog. The dog's front and hind legs were bound and a board was placed over the dog to pin it to the ground. Witness 3 heard people say that they could handle the dog. Two males said that they knew the dog and untied the dog. Witness 3 saw the dog bite people on the scene, who then screamed for help. Witness 3 stepped back and did not have a clear view of where the dog was positioned. While he heard gunshots, Witness 3 did not see who fired the weapon or who tased the dog. Witness 3 related that the dog had bitten an unknown female and some children on the block. (Att# 4)

In an audio interview, **Witness 4**, related, that on the date of the incident, he and a day laborer he hired (Witness 4 was unable recall the name, but described him as a Hispanic male) were working in his building, located at XXXX S. Eberhart, when he heard a female yelling. Witness 4 and the male Hispanic exited the building and ran northbound toward 6100 S. Eberhart. Witness 4 observed an unknown black female being attacked by a large dog. The Hispanic male grabbed a piece of wood (2x4) and ran northbound on Eberhart. According to Witness 4, the Hispanic male struck the dog in an attempt to have the dog release the female's leg while Witness 4 grabbed the unknown female, dragged her across the street, and contacted 911. An unknown black male youth then grabbed the dog and attempted to control it, however, the dog continued to growl and make aggressive movements. A few moments later a black female sergeant, now known as Sergeant A, arrived on the scene and tasered the dog, which had no effect other

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than to further enrage the dog. An unknown black male, now known as Witness 2, attempted to take control of the dog, but the dog lunged and growled at everyone in its path until the dog finally took hold of the pant leg of Witness 2 causing him to fall to the ground. At approximately 1530 hours, according to Witness 4, Officer A arrived on the scene and as he approached the dog, he fired numerous rounds at the dog. The dog released Witness 2's pant leg and other civilians on the street were finally able to subdue the dog. The Chicago Fire Department EMS arrived on the scene and Witness 4 assisted Witness 2 into the rear of the ambulance. (Att# 28).

**Attempts to contact Witness 3** for a comprehensive interview by postal service and in-person visit were unsuccessful. (Att# 35)

A **canvass** of the area produced no witnesses or additional information. (Att# 17)

**Chicago Fire Department EMS** records reflect that Witness 1 sustained a laceration to the upper right knee and a self-described gunshot wound to the upper right knee. (Att# 31)

**Medical records obtained from the University of Chicago Hospital** indicated that Witness 1 arrived at the Emergency Room and reported to Doctor W that a police officer shot him. Doctor W related that Witness 1 could have sustained his wound, described by Doctor W as a "graze," either from a projectile or from a dog bite. Doctor W noted that his first guess would be a dog bite. Doctor W also related that the injury above Witness 1's knee, which was described as a short, horizontal, wound, whereas the injury below the knee was a single point puncture. Doctor W related that the wound above the knee could have been from a dog bite if either Witness 1 or the dog moved suddenly once the bite had broken the skin. Doctor W gave Witness 1 a tetanus shot and cleaned his wounds. (Att# 8,36)

**Office of Emergency Management Communications** printouts reflect that several calls were made to 911 in reference to a woman being attacked by a dog. (Att# 15)

The **General Offense Case** report reflects that Sergeant A responded to a call of a woman being attacked by a dog. Sergeant A deployed her taser with no effect and failed to subdue the dog. Officer A responded to the area and observed the dog's vicious and uncontrollable behavior. In fear for the citizens on the street, Officer A fired his weapon four times in a downward position striking the dog. Witness 1 informed Officer A that one of the bullets possibly grazed him. Chicago Fire Department EMS arrived on the scene, treated, and released Witness 1, who initially refused to go the hospital. Later in the evening, Bt 323 transported Witness 1 to the University of Chicago Hospital where he was treated by Doctor W and released. (Att # 9)

A **Supplemental Report** reflects that Witness 1 retrieved a piece of metal from inside of his thermal underwear and gave it to Sergeant A. Sergeant A did not witness Witness 1 retrieve the metal. Sergeant A turned the metal over to the Crime Lab. (Att#9)

**Tactical Response Report** submitted by Sergeant A, # 1536, reflects that she discharged her taser at an attacking dog. (Att# 10)

**Tactical Response Report** submitted by Officer A, # 11621, reflects that he discharged his weapon four times at an attacking dog. (Att # 11).

**Illinois State Police Lab Report** reflects that Officer A's weapon<sup>3</sup> was in good firing condition. The lab also examined the metal fragment given to Sergeant A by Witness 1. However, due to the extent of mutilation to the bullet fragment its caliber and characteristics could not be determined. Therefore, it could not be determined whether the fragment came from Officer A's weapon. (Att# 32)

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<sup>3</sup> Ruger, model P89Dao 9mm Luger caliber semiautomatic

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**In Civil Suit # 10-10-CV-05560**, Witness 1 related that on the date of 12 November 2009, Officer A withdrew his service weapon and fired multiple rounds in the direction of Witness 1. Witness 1 was not arrested, or charged with a crime, therefore, the actions of Officer A were deemed to be willful, wanton, malicious oppressive and done with reckless indifference for the safety of Witness 1's person, adding that there was no legal cause for Officer A to use force against Witness 1. (Att# 42)

In a digitally recorded interview taken at IPRA by Investigator B, on 12 August 2011, **Officer A** related, in essence, the same information as reported at the Roundtable on 12 November 2009. Officer A related that when he arrived on the scene and inquired as to the ownership of the dog, no one identified himself or herself as the owner of the dog or as someone having knowledge of the owner of the dog. He said the dog was behaving in an aggressive manner, jumping up and down and growling. Officer A related that the dog responded to the taser deployed by Sergeant A by becoming more aggressive. Officer A instructed everyone, including Sergeant A to move from the area. There was no one, including officers, in close proximity to the dog when, at a distance of approximately three to four feet from the dog, he directed his weapon in a downward direction and at the dog and fired three to four rounds at the dog.

Several moments later, a male black now know identified as Witness 1, approached the Officer A and stated that he removed a bullet from his pants. Witness 1 showed Officer A what he identified as a bullet. Officer A asked Witness 1 to show him the injury and asked Witness 1 if he was bleeding and or injured. Witness 1 related that he was not injured. Officer A then informed Sergeant A of the situation. And she spoke with Witness 1 and called for an ambulance. Upon the arrival of the ambulance, Witness 1 was treated on the scene and refused to go to the hospital. (Att# 48)

In a digitally recorded interview taken at IPRA by Investigator B on 09 Sept 2011, **Sergeant A** related in essence the same information as related to the Roundtable Panel on 12 November 2009. Sergeant A related that at the time of the incident the dog appeared to be acting in an aggressive manner, growling and barking. Sergeant A



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attempted to sedate the dog, by deploying her taser. The dog actually became more aggressive, barking, growling and jumping. Officer A instructed every one in the area to stand clear. Officer A drew his weapon and fired at the dog. Sergeant A related that she had no knowledge of the location of Witness 1 at the time of the shooting.

Moments later, Sergeant A heard a call over the radio of a person being shot approximately one block from the location of incident. Sergeant A. Sergeant A then observed Witness 1 in the area of a Chicago Fire Department ambulance. Sergeant A approached Witness 1 who informed her that he had been shot by Officer A when he fired at the dog. Witness 1 handed Sergeant A what he identified as a bullet. Sergeant A requested that Witness 1 have medical attention, but he refused to allow the paramedics to examine him and he refused to go to the hospital. Sergeant A radioed for supervisors, informed them of the situation, and possession of the fragment. (Att# 54)

### **CONCLUSION AND FINDING:**

The reporting investigator recommends that the allegation against Officer A, specifically that he willfully, wantonly, maliciously, oppressively and with reckless indifference, discharged his weapon striking Witness 1 be **UNFOUNDED**. Officer A responded to a call of woman being attacked by a dog. Officer A, in fear for his safety and the safety of the civilians in the area, discharged his weapon, striking the dog. Officer A' actions were within the policy of the Chicago Police Department's General Order 02-08-03, II A-1 in regards to the shooting. Officer A reasonably believed that the force was necessary to prevent death or great bodily harm to himself or to another person. Officer A also followed provisions in General Order G.O. 02-09-02 in that he submitted relevant Department reports and made all notifications. Even if one were to assume that bullets fired by Officer A did strike Witness 1, it was not intentional. The medical records indicate that Witness 1 had a "grazed" wound and the doctors were unable to definitively identify the injury or its cause.