

INVESTIGATION

NUMBER: Log #1032413, U# 09-50

OFFICER

INVOLVED#1: “Officer A” (Chicago Police Officer); Male/Black; 37 years old;
On Duty; Plain Clothes; Year of Appointment – 2003

OFFICER #1’S

INJURIES: None reported

OFFICER #2: “Officer B” (Chicago Police Officer); Male/White; 33 years old;
On Duty; Plain Clothes; Year of Appointment – 1999

OFFICER #2’S

INJURIES: Right ankle sprain/ligament damage. Treated and released at Resurrection Hospital.

OFFICER #3: “Officer C” (Chicago Police Sergeant); Male/White; 39 years old;
On Duty; Plain Clothes; Year of Appointment – 1996
(Did Not Fire).

OFFICER #4: “Officer D” (Chicago Police Officer); Male/White; 28 years old;
On Duty; Plain Clothes; Year of Appointment – 2004
(Did Not Fire)

SUBJECT: “Subject 1”; Male/Black; 28 years old

SUBJECT’S

INJURIES: (2) gunshot wounds to upper left chest, (1) gunshot wound to left shoulder,
(1) thru-and-thru gunshot wound to left knee. Treated at Loyola Hospital.

DATE/TIME: 09 December 2009 – 2314 hours.

LOCATION: 1700 N. Moody Street
Beat 2513

SUMMARY OF INCIDENT:

On 09 December 2009, at approximately 2314 hours, the Area Five Gang Team was conducting a narcotics investigation in the area of 1700 N. Moody, when they observed the subject/offender (NKA Subject 1) driving east on Wabansia. Officer C utilized his radio to broadcast Subject 1's direction. Officers A and B drove north on Moody from North Ave. At the intersection of Wabansia and Moody, Officers A and B observed Subject 1's vehicle stopped at the stop sign. The officers also observed that the headlights of Subject 1's vehicle were not activated. Officer B activated his unmarked squad car's emergency equipment and pulled in front of Subject 1's vehicle to prevent him from driving forward. The police officers exited their vehicle while giving Subject 1 verbal orders to show them his hands. As Officers A and B ran towards Subject 1's vehicle, Subject 1 drove in reverse down Wabansia. At the same time Officer C and Officer D drove east on Wabansia and approached Subject 1's vehicle from behind. Subject 1's vehicle came to a stop after it nearly struck a truck parked on the north side of Wabansia. Subject 1's vehicles' engine revved and the vehicle drove forward on Wabansia directly at Officer B, who was near the parkway on the south side direction of Wabansia. Officer B discharged his firearm two times at Subject 1's vehicle. While attempting to get out of the way of Subject 1's vehicle Officer B slipped on the ice and fell to the ground. Officer A, who was standing on the driver's side of Subject 1's vehicle, believed that Officer B was under Subject 1's vehicle. Officer A discharged his firearm several times at the driver's side of Subject 1's vehicle. Subject 1's vehicle continued to travel on Wabansia, first driving onto the parkway and knocking down the stop sign located on the southwest corner of Wabansia and Moody. Subject 1's vehicle continued across Moody over the curb and came to a stop next to the front porch of 1653 N. Moody. Subject 1 was then taken into custody and a subsequent search found Subject 1 in possession of 278 zip-log baggies of crack cocaine. Subject 1 was transported to Loyola Hospital with multiple gunshot wounds. Evidence Technician photographs documented bullet holes in Subject 1's vehicle consistent with the accounts provided by Officers A and B.

INVESTIGATION:

Officer C related to the Roundtable that during a narcotics investigation in the vicinity of Merrimac and Wabansia he observed the target of that investigation (NKA Subject 1) driving a white Mitsubishi east on Wabansia. Officer C radioed a description of Subject 1's vehicle and his direction of travel to the other units. Officer C stated that he was driving approximately a half a block behind Subject 1's vehicle when Subject 1 stopped at the stop sign at Moody. Officers Debose and Sobieraj, who were driving north on Moody from North Ave. pulled in front of Subject 1's car with their squad car's emergency equipment activated. Officer C observed Subject 1's vehicle drive in reverse. After Subject 1 drove his vehicle in reverse approximately ten feet Officer C activated his squad car's emergency equipment. Subject 1 stopped his vehicle briefly and then drove forward on Wabansia. Officer C heard the wheels of Subject 1's vehicle spinning on the ice as the engine revved. Officer C stated that Subject 1's vehicle drove directly towards Officer B who was standing near the curb on the south side of Wabansia, while Officer A was standing near the north side of the street. Officer C observed Officer A discharge his firearm several times at the driver's side of Subject 1's vehicle. Subject 1's vehicle continued to accelerate, jumping over the curb, and knocking down the stop sign on the southwest corner of Wabansia and Moody. Subject 1 continued to drive his vehicle across Moody and finally stopped directly in front of a house on the east side of Moody.

Officer D related to the roundtable that he was the passenger in the vehicle driven by Officer C. Officer D stated that after Officer C radioed that Subject 1 was driving east on Wabansia from Merrimac he observed Subject 1's vehicle stop at the intersection of Wabansia and Moody. Officer D observed the vehicle driven by Officers A and B stop in front of Subject 1's vehicle with their emergency equipment activated. Subject 1 then drove his vehicle in reverse, at which point Officer C activated his vehicle's emergency equipment. Subject 1 first stopped and then proceeded to drive his vehicle forward on Wabansia. Officer D stated that Subject 1 drove directly at Officer B, who was standing on the south side of Wabansia. Officer D then observed Officer A who was standing directly to the north of Subject 1's vehicle; discharge his firearm several times at Subject 1's vehicle. Officer D stated that he did not see or hear Officer B discharge his firearm. Subject 1 continued to drive his vehicle over the curb, across Moody, and stopped directly in front of a residence located at 1653 N Moody.

Officer E related to the roundtable that he did not witness the shooting and explained that he arrived after the shooting occurred. Officer E stated that when he arrived on the scene Subject 1 was already out of his vehicle and Officer E helped secure and search Subject 1. During the search, Officer E located a large plastic bag containing numerous, smaller, zip-lock baggies containing crack-cocaine.

CPD Detective 1 related to the roundtable that he rode in the ambulance with Subject 1. CPD Detective 1 stated that Subject 1 spoke to him and provided his name and address. Subject 1 told CPD Detective 1 that he ran because he did not want to go back to jail and that the police shot him. When CPD Detective 1 asked Subject 1 why he ran, Subject 1 replied that he wanted to speak to his girlfriend, "Name Withheld." Subject 1 then went in and out of consciousness and did not provide any further information. At Loyola Hospital, Subject 1 was treated and examined by Doctor A, who informed CPD Detective 1 that Subject 1 sustained two

gunshot wounds to his upper left chest and left shoulder, his left leg, and a thru-and-thru gunshot wound to his left knee. Subject 1 was in critical condition.

Officer A related to the roundtable that he was the passenger in the squad car driven by Officer B. The Officers observed Subject 1 come to a stop at the intersection with no headlights activated. The Officers stopped directly in front of Subject 1's vehicle. As the officers exited their squad car they gave verbal orders of, "Put your hands up! Show me your hands," to Subject 1. Subject 1 did not respond to the commands. Subject 1 shifted his vehicle into reverse and drove backwards on Wabansia. Subject 1 stopped his vehicle and Officer A heard the engine rev. Subject 1 then drove his vehicle forward directly at Officer B. Officer A believed that Subject 1's vehicle had struck Officer B. Officer A discharged his firearm several times into the driver's side of Subject 1's vehicle. Subject 1 continued to drive his vehicle forward, knocking over a stop sign and proceeded across Moody. Subject 1 stopped his vehicle directly in front of a residence located on the east side of Moody. As Officer A approached Subject 1's vehicle he observed Officer B lying on the ground near the intersection of Wabansia and Moody. Officer C and Officer D then approached and Subject 1 was taken into custody.

Officer B related to the roundtable that after he stopped his unmarked squad car in front of Subject 1's vehicle, he (Officer B) exited his vehicle and gave the verbal orders. Officer B stated that he could see that Subject 1 was the only occupant of the vehicle. As Officers A and B approached Subject 1's vehicle, Subject 1 drove in reverse. Officer B stated that Subject 1 turned the steering wheel as he drove in reverse. Officer B stated that he was walking along the parkway of Wabansia when Subject 1 suddenly drove forward towards him. Officer B repeatedly gave Subject 1 verbal direction but Subject 1 did not comply and continued to drive directly at Officer B. Officer B stated that the first time he attempted to discharge his firearm at Subject 1, his firearm malfunctioned. Officer B was able to clear the malfunction and he discharged his firearm at Subject 1's vehicle while attempting to get out of the way. Officer B stated that as he attempted to evade the vehicle, he slipped, fell to the ground and subsequently twisted his right ankle. Subject 1 drove his vehicle through the corner of the intersection and then across Moody. Subject 1's vehicle came to a stop in front of a residence located on the east side of Moody. Officer B heard Officer A over the radio making notifications of shots fired and requesting an ambulance.

The **Department Reports** related that Subject 1 was arrested of Possession of 15+ Grams of Cocaine and Attempted Murder with Officer B as the intended victim. The incident narrative of the report indicated that Subject 1 refused to exit his vehicle and respond to verbal commands given by Officer B and Officer A. The narrative of the arrest report and of the Original Case Incident Report both documented that the offender reversed momentarily then drove his vehicle directly at Officer B at a high rate of speed. Fearing for his life, Officer B fired four rounds while his partner Officer A in protection of Officer B's life fired 9 rounds at Subject 1. Subject 1 was subsequently struck numerous times and drove his vehicle onto the sidewalk where he came to a stop. The arresting officers immediately summoned ambulances for Subject 1 and Officer B. During a custodial search, the arresting officers recovered 278 bags of suspected crack cocaine.

A **Tactical Response Report** completed by Officer B documented that Subject 1 “did not follow verbal command”, “fled”, was an “imminent threat of battery”, “attacked with weapon”, and “used force likely to cause death or great bodily harm.” Officer B responded with “member presence”, “verbal commands”, and the use of his “firearm”.

Officers Battery Report for Officer B documented that Officer B received a non-fatal minor injury. The report documented that Subject 1 attempted to use his vehicle to strike an officer.

A **Tactical Response Report** filed by Officer A related in essence the same information as the TRR completed by Officer B.

The **Chicago Fire Department Ambulance Report** documented that Subject 1 stated he was running from the police because he did not want to go to jail. The narrative stated Subject 1 received two gun shots to the left side of the chest, one gun shot wound to the left top shoulder with no exit wound, one gun shot wound to the buttocks with no exit, and one gun shot wound to the left knee with an exit wound to his left shin. The Chicago Fire Department also stated that Officer B had symptoms of an ankle sprain. The report indicated that Officer B stated he was attempting to make an arrest when the subject tried to run him over in a vehicle, causing Officer B to move out of the way of the car, subsequently landing on his right ankle causing an injury.

IPRA Investigator A and **IPRA Investigator B** made a **personal visit to Loyal Medical Center** and checked the medical status of Subject 1 on 11 December 2009 and 12 December 2009. The investigators spoke with the nursing staff who related that Subject 1 was in critical condition and could not be interviewed. On 13 Dec 2009, IPRA investigators returned to Loyola Medical Center for the purpose of securing an interview. Upon arrival, Officer F and Officer G informed IPRA investigators that Subject 1 was in custody and could not be interviewed without permission from their supervisors. Approximately five minutes later, Officer F informed IPRA investigators that they would have to go through regular procedure at Cook County Correctional Facility in order to obtain permission for an interview. Officer F further informed the investigators that they were not allowed in the room until the process was completed. On 13 December 2009, Subject 1 was listed in stable condition.

On 15 December 2009, IPRA Investigator C spoke with Officer H, via telephone and inquired if Subject 1 would be willing to be interviewed by IPRA. Officer H stated that Subject 1 responded, “Absolutely.” Officer H further related that it was possible that Subject 1 may be moved to another facility.

IPRA sent a **certified letter** to Subject 1’s family detailing that IPRA is conducting an investigation into the police involved shooting involving Subject 1.

On 06 May 2011, a telephone call was received from **Attorney A** stating that he was representing Subject 1. Attorney A related that he would not permit Subject 1 to make any statements to IPRA. Attorney A stated he was currently filing a motion to suppress before the next court date on 31 May 2011.

Medical Records for Subject 1 from Loyola Medical Center documented that Subject 1 was admitted on 10 December 2009 for multiple gun shot wounds to the chest. The documents listed Subject 1's address as XXXX W Huron, Chicago, IL 60601 and his date of birth as XX April XXXX. Upon admission into the hospital, Subject 1 was EMS trauma level 1. Subject 1 was taken to the operating room for exploratory laparotomy performed by Doctor A. The surgery determined that Subject 1 had rectal and bladder injuries. Due to his decreased oxygen saturation and critical condition, he was brought to the surgical ICU for resuscitation. Subject 1 was discharged to Cermak Health Services on 25 Dec 2009.

A **Canvass** was conducted on 10 December 2009 near the location of 1653/ 1700 N Moody. The Canvass documented that no residents witnessed the incident in question.

Crime Scene Processing Report documented items inventoried and photographs obtained by the Evidence Technicians at the scene. The report also documented that Officer B and Officer A's weapons were recovered and swabbed at Area 5 Detective Division. The Evidence Technicians took photographs of Officer B's injuries. The Evidence Technicians relocated to Loyola Medical Center where Subject 1 was, photographed, fingerprinted and his clothing was recovered. The report was submitted by Officer I on 10 December 2009 at 1832 hours.

Crime Scene Processing Report #109897 documented that the Evidence Technicians searched the 1998 Mitsubishi that was driven by Subject 1. The Evidence Technicians located one bullet fragment under the front driver's side seat on the floor. The report was submitted by Officer J on 10 December 2009 at 1508 hours.

IPRA Investigator A requested to interview Subject 1 for an appointed date of 23 Dec 2009. IPRA Investigator A again requested to interview Subject 1 for an appointed date of 08 Jan 2010. On 08 Jan 2010, Subject 1 declined to be interviewed.

Illinois State Police Forensic Science Laboratory Reports documented under Lab Case #C09-047612 that Officer B and Officer A's firearms were tested and in proper working condition. The unfired cartridges were analyzed for caliber and type only. The lab analyzed 16.3 grams of white chunky substances found to be cocaine.

The related **OMEC Event Queries** documented that at 2313 hours on 09 Dec 09 a police officer reported shots fired by the police at Moody and Wabansia, requested assistance, and reported an officer was hit by a moving vehicle. Four 911 calls from civilians from approximately 2313 hours to 2315 hours reported shots fired. At 2319 hours, the dispatcher related these 911 calls to police officers, at which time an officer replied to the dispatcher that they had an offender in custody that matched the description given by the callers.

The **Detectives Supplementary Report** documented the reporting detective found that the cartridges' placement and tire impressions matched the scenario given by Officers A and B.

A related Civil Suit, Subject 1 V. City of Chicago and Officer B and Officer A (11 C 8563) was located. The initial suit documented that Subject 1 posed no danger, or threat of danger, to either Officer B or Officer A. It also documented that Subject 1 was shot by Officer B and

Officer A without justification and at the time of the shooting, Subject 1 was unarmed and sitting in his vehicle. It also documented that Subject 1 suffered injuries and bodily harm due to the manner in which he was treated at the time of his arrest. The suit documented that Subject 1 was represented by Attorney B and the Officers were represented by Attorney C and Attorney D. A status hearing for the deposition of Subject 1 is set for 18 October 2012.

In an **audio recorded statement with IPRA on 25 May 2011, Officer C** stated he was part of a team looking for a male black subject in a white Mitsubishi picking up a large amount of narcotics in the general location of the incident. Officer C related that he was working in an unmarked squad car in civilian dress. Officer C stated he observed a vehicle driving in the area that matched the description of the vehicle they were looking for. Officer C indicated that the vehicle was traveling without its headlights or tail lights illuminated. Officer C provided the description of the vehicle to the dispatcher and the other squad cars in the area. Officer C provided the location of the vehicle and asked for a squad car to make a traffic stop on it. Officers A and B arrived at the location and attempted to stop the vehicle. Officer C stated Officers A and B blocked the vehicle from the front with their emergency equipment activated and then exited the vehicle. Officer C indicated that he approached the vehicle from behind in his squad car. Officer C stated Subject 1's vehicle went in reverse until Officer C activated his emergency lights. Subject 1 then put his vehicle in drive and drove towards Officer B. Officer C stated he observed Officer B jump and fall to the ground and observed Officer A fire his weapon several times. Officer C stated the vehicle continued forward until striking a porch on the southeast corner of Moody and Wabansia. Officer C stated he, Officer A, Officer D and Officer E approached the vehicle and observed that Subject 1 was struck several times. Officer C stated he radioed for EMS and Officer E informed Officer C of a large amount of narcotics inside the vehicle. Officer C indicated he did not see Officer B fire his weapon.

In an **audio recorded statement with IPRA on 13 June 2011, Witness, Officer D**, stated he was in plain clothes working with Officer C in an unmarked vehicle. Officer D stated he observed Subject 1's vehicle reverse towards his direction and then drive southbound on Moody. Officer D stated he observed Officer A fire his weapon but did not observe Officer B firing his weapon. Officer D stated after the shooting the vehicle continued until crashing into a residence. Officer D stated he, Officer A, and a couple other officers approached the vehicle, observed the subject unconscious, and placed him in custody.

In an **audio recorded statement with IPRA on 25 May 2011, Involved Officer, Officer B**, stated that he was on-duty, in civilian dress, working with his partner Officer A driving an unmarked squad car. Officer B related that he received information from Officer C that the vehicle they were possible looking for, carrying narcotics was driving eastbound on Wabansia. Officer B stated he and his partner encountered the vehicle on Moody and Wabansia and proceeded to stop their squad in front of the suspect's vehicle. Officer B stated he exited his vehicle and announced his office. In response the subject reversed his vehicle a short distance and then put the vehicle back in drive. Officer B stated that the subject drove directly towards him. Officer B stated he jumped into the sidewalk but the subject continued towards him; thus, in response Officer B fired his weapon in fear of his own life. Officer B indicated he fired his weapon four times when the subject vehicle was about ten feet away. Officer B could not recall

how many times his partner, Officer A, discharged his weapon. Officer B stated the subject vehicle nearly missed him, went across the lawn, and knocked down a stop sign.

In an **audio recorded state with IPRA on 21 June 2011, Involved Officer, Officer A**, stated that he was on duty, in civilian dress, with his partner Officer B. Officer A related in essence the same information as Officer B in regards to the initial contact with Subject 1. Officer A stated as they approached the vehicle they activated their emergency equipment and told Subject 1 to raise his hands. Officer A stated the subject did not comply and put the vehicle in reverse and accelerated. Officer A stated that the car then stopped, revved the engine loudly, and drove forwards towards Officer B who was on the sidewalk on the passenger's side of Subject 1's vehicle. Officer A stated he observed what he believed was Officer B being hit by the vehicle. Officer A then fired his weapon nine times at the vehicle because he believed his partner was being run over. Officer A related that he knew Officer B discharged his weapon but did not know where Officer B was when he fired. Officer A stated that Subject 1's vehicle continued forward down the street and into a resident's lawn. Officer A stated Officer D and Officer C were at the location when the shooting took place, however he was unable to determine if they observed any of the incident take place.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A and Officer B were **Justified** and 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."

Officers A and B stopped Subject 1's vehicle because the vehicle had no headlights on and the vehicle was under surveillance by Officer C for suspected drug activity. Officers A and B approached Subject 1's vehicle from the front, activated their emergency lights, and gave verbal commands to Subject 1 to raise his hands. Subject 1 drove his vehicle in reverse towards Officer C's squad car as he and Officer D approached from the rear. Officer C activated the emergency lights in their squad car. Subject 1 stopped his vehicle and then drove forward towards Officer B, who in fear of his life, discharged his weapon while attempting to jump out of the way of the oncoming vehicle. Officer A, in fear of his partner's life, discharged his weapon towards the subject's vehicle. Evidence Technician photographs documented bullet holes in Subject 1's vehicle consistent with the accounts provided by Officers A and B. The Officers' actions were in accordance with the requirements of the Department's Use of Deadly Force policy.

Officer B was in accordance with the statute "to prevent death or great bodily harm to the sworn member or to another person" because he reasonably believed his life was in danger when Subject 1 drove his vehicle towards him. The reports document that there was a high likelihood that Officer B was in danger of "great bodily harm" described in the statute if he did not stop the threat on his life by firing his weapon.

Officer A was in accordance with the statute "to prevent death or great bodily harm to the sworn member or to another person" because he reasonably believed his partner's life was in danger when Subject 1 drove his vehicle towards Officer B. Officer A reasonably believed that his

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partner was receiving a battery from Subject 1's vehicle from the position he was in and acted accordingly under the circumstances.