

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1032871/U # 10-1

INVESTIGATION

NUMBER: U # 10-1/ Log # 1032871

INVOLVED

MEMBER# 1: "Officer A" (Chicago Police Officer); Male/Black; 29 years old; On-Duty; Civilian Dress; Year of Appointment – 2004

INVOLVED

MEMBER'S

INJURIES: Abrasions to the right hand and right knee

INVOLVED

MEMBER#2: "Officer B" (Chicago Police Officer); Male/White; 27 years old; On-Duty; Civilian Dress; Year of Appointment – 2005

INVOLVED

MEMBER'S

INJURIES: Abrasions to left hand, elbow, and abrasion to both knees

INVOLVED

SUBJECT:

"Subject 1"; Male/Black; 26 years old

SUBJECT'S

INJURIES: Gunshot wound to the Abdomen (Stable Condition)

INITIAL

INCIDENT:

Traffic Stop

DATE/TIME

OF INCIDENT:

01 Jan 2010 at approximately 1344 hours

LOCATION:

300 East 75th Street- on the street

BEAT:

623

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SUMMARY OF INCIDENT:

On 01 Jan 10, at approximately 1340 hours, Officer A and Officer B were working Beat 42S04 in civilian dress and were in a marked squad car. The officers observed the driver of a 1999 silver Chrysler Concorde commit a minor traffic violation, seat belt violation, near 300 E. 75th St. The officers curbed the Concorde at approximately 303 E. 75th St. The officers observed the Concorde's driver, Subject 2, and the passenger, Subject 1, make "furtive"¹ movements inside the vehicle. The officers exited their squad car. Officer A went to the driver's side of the Concorde and Officer B went to the passenger side. The officers ordered Subject 2 and Subject 1 out of the car, and both exited. Subject 2 remained on the driver's side, but Subject 1 attempted to flee. Officer B stopped Subject 1. Officer A went to the passenger side to assist Officer B.

Both officers struggled with Subject 1. The officers observed a handgun in Subject 1's waistband. During a struggle that lasted more than a minute, Subject 1 grabbed at both officers' weapons in an attempt to disarm them. Subject 1 and the officers fell to the ground. As they struggled Officer B grabbed Subject 1's left wrist, placed a handcuff on it and attached the other handcuff to a security gate in front of a storefront at 303 E. 75th St. Subject 1 used his right hand to reach for his pistol. Officer A, who got to his feet, fired his weapon once at Subject 1, wounding him in the abdomen. Officers placed Subject 1 into custody. An ambulance transported him to Christ Hospital where he was reported to be in critical condition.

During a search of Subject 1's clothing officers recovered a black holster. Officers recovered a weapon from Subject 1 Officers inventoried the weapon.

INVESTIGATION:

CPD Detective 1, Area Two conducted a Roundtable Panel on 01 January 2010 (Att# 28).

CPD Detective 1 related to the **Roundtable Panel** the accounts of the incident from four witnesses who chose to leave Area 2 before the Roundtable began. The four witnesses are Witness 2, Witness 4, Witness 3 and Witness 1. CPD Detective 1 stated that all four witnesses essentially that they arrived at the 300 block of East 75th in a van and went to a liquor store on the north side of 75th Street. They left the liquor store and observed Officer A and Officer B stopping the Concorde. The witnesses saw the driver² get out of the Concorde and walk to the rear of that vehicle. The witnesses observed the officer who went to the passenger side of the Concorde struggle with the passenger from the Concorde. The officer who was on the driver's side of the Concorde went to the passenger side and struggled with the passenger. During part of the struggle, the officers and the passenger were on the ground. The witnesses did not see the whole struggle because of passing traffic and because their view was partly blocked by the vehicles parked on the south side of 75th Street.

¹ Sudden moves made inside the vehicle

² The driver was identified as Subject 2 and the passenger was identified as Subject 1

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CPD Detective 1 continued that the witnesses saw both officers and the passenger move on foot toward the front of the Concorde. During the struggle, the passenger pushed both officers, who fell down. As the struggle continued, the officers moved up and down, in and out of view. The two officers and the passenger ended up against the bars of the security gate at 303 E. 75th St. Officer B, described as a white male, placed one cuff on the passenger and tried to “drag” him to the gate. The witnesses were not sure which one of the passenger’s hands was handcuffed to the gate. During the struggle, the witnesses heard someone say, “My gun, my gun,” and “[Officer B’s First Name], he’s got my gun.” The witnesses heard one gunshot. The passenger was shot while one of his wrists was cuffed to the gate. The witnesses did not see the passenger with a weapon in his possession, but he was on the ground and not visible at all times to the witnesses. In addition, both officers stood over the passenger after the shot was fired. Following the shooting, one officer went onto 75th Street and stopped a passing ambulance. The ambulance paramedics treated the passenger.

Officer B related to the Roundtable Panel that he and Officer A pulled over the Concorde because of a minor traffic violation. Officer B saw someone make “furtive movements” inside the Concorde. Officer B went to the passenger side of the Concorde. He saw the driver (Subject 2) exit the Concorde. Officer B asked the passenger (Subject 1) to exit and step to the back of the car, which he did. Officer B asked Subject 1 to put his hands on the trunk. Subject 1 turned away and tried to flee. Officer B grabbed one of Subject 1’s arms and held him. Officer A then joined Officer B and they put Subject 1 on the ground. Officer B saw a gun in Subject 1’s waistband. Officer B yelled, “He has a gun!”

Officer B said that he and Officer A continued struggling with Subject 1 on the sidewalk. During the struggle, Subject 1 reached for Officer B’s holstered weapon and tried to pull the holster. Officer B was able to handcuff Subject 1’s left wrist. Officer B attempted to handcuff Subject 1’s right wrist, but was unable to because of the struggle. The officers and Subject 1 were next to the security gate. Officer B snapped the loose cuff to the security gate. Subject 1’s right hand was free and he reached for his own weapon. The officers backed up. Officer B drew his weapon. Officer B heard the shot fired by Officer A, but he did not see Officer A fire. Officer B was on the west side of Subject 1 when Officer A fired. Subject 1 was facing Officer A.

Officer B said Subject 1’s furtive movements inside the car consisted of reaching to his sides. Officer B said he wore his holster on his right side and is right-handed. He had minor injuries on his left leg, left knee and left elbow from the struggle.

Officer A related to the Roundtable Panel that he and Officer B curbed the Concorde because the passenger (Subject 1) was not wearing a seatbelt. Officer A observed Subject 1 make “furtive” movements while in the car. The movements were his reaching downward with his right hand. The officers ordered Subject 2 and Subject 1 out of the Concorde. Subject 1 exited the Concorde while Officer A was on the driver’s side

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of the vehicle. Officer B attempted to patty down Subject 1, who attempted to flee toward the west. Officer B grabbed Subject 1, struggled with him and had him against the Concorde. Officer A ran around to the passenger side of the Concorde and observed that Subject 1 had a gun in his waistband. The gun was in a "pancake" holster. Both officers struggled with Subject 1, during which Subject 1 grabbed Officer A's weapon. Officer A said, "He's got my gun. Shoot the MF."

Officer A continued that his weapon shifted and he moved away from Subject 1. Officer A heard Officer B say that Subject 1 had his ([Officer B's Last Name]) gun. Officer A stepped back, saw Subject 1's gun in his waistband and then fired one shot at Subject 1. Officer A said he was in fear for his life and that of Officer B when he fired. Officer A was standing in approximately the middle of the sidewalk when he fired at Subject 1, who was near the security gate. Officer A did not see that Subject 1 was handcuffed to the security gate. Officer B was to the west of Subject 1 and appeared to be still struggling with him when Officer A fired. Officer A did not recall if Officer B was holding Subject 1 when he fired.

Officer A stated that he (Officer A) wore his holster on his left side and he is left-handed. Officer A said his holster had two snaps securing his weapon. He said that even with that much security; anyone could unsnap them and take the gun out of the holster. Officer A had minor injuries to three fingers of his right hand and to his right knee from the struggle.

CPD Detective 3 related to the Roundtable Panel that Subject 1 was out of surgery and was recovering at the hospital. CPD Detective 3 said he Mirandized Subject 1. Subject 1 told CPD Detective 3 that he carried the gun for his protection because he had been shot before.

CPD Detective 4 reported to the Roundtable Panel that Subject 1 was in critical condition and was in surgery at Christ Hospital.

On 01 January 2010, the **Witness 1** provided the Independent Police Review Authority with a digitally recorded statement. Witness 1 stated that on 01 January 2010, she was standing directly across the street from the officers stopped a car. Witness 1 stated that she observed the passenger of the car tussling (resisting) with a white male officer (Officer B) and male black officer (Officer A) on the sidewalk across from where she was standing. The officers and the passenger on the ground, but Witness 1 did not clearly observe the action. Witness 1 stated that she believed that the passenger was attempting to break free from the officers, because all three were on their feet and Officer A black officer grabbed the passenger by the back of the neck, as the white officer attempted to handcuff the passenger. Witness 1 heard Officer A yell out, "Shoot him." Officer B had his hand on his gun. Officer A released his hold on the passenger. The tussling lasted approximately one minute. Witness 1 observed the driver of the car standing in the street on the driver's side of the vehicle. People on the street including Witness 1 yelled to the passenger, "Stop resisting!" At that point, Officer B grabbed the passenger's arm and handcuffed him to a gate. Officer A

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stepped back approximately two or three feet away from the passenger and fired at the passenger. The passenger fell to the ground.

On 01 January 2010, **Witness 2** provided Independent Police Review Authority with a digitally recorded interview. Witness 2 stated that earlier on 01 January 2010, he and his brother, Witness 4; his sister-in-law, Witness 1; and a friend of Witness 1's (NFI) stopped at a store at 303 E. 75th Street to pick up a few items before going to a New Year's Day party at a relative's home. As they exited the store, Witness 2 observed that a police car with two male officers, one black and one white, had pulled over a car with two black males.

The black officer (Officer A) approached the driver's side door and the white officer (Officer B³) went to the passenger side door. Witness 2 stated that he was directly across the street from where the officers stopped the car. Witness 2 related that he wears reading glasses and wore glasses at the time of the incident, allowing him to clearly see what was happening. Officer A went over to Officer B on the passenger side and pulled the passenger out of the car. The passenger "tussled" with Officer A. Witness 2 described, "Tussled" as Officer A grabbing at the passenger and the passenger pushing back trying to keep the officer away from him. The passenger reached around the officer, grabbing at his waist, but never grabbed hold of the officer's gun or unsnapped the holster strap.

Witness 2 stated that Officer A yelled out, "[Officer B's First Name], [Officer B's First Name], shoot him. He's trying to get my gun." Officer B did not pull out his gun but also "tussled" with the passenger, trying to detain him. The driver of the car asked what was going on and Witness 2 and Witness 1 called out to the passenger to "stop resisting" and tried to calm the passenger down. Witness 2 stated that he was concerned for the passenger because the passenger was acting out in more of a confused way than an aggressive way. Witness 2 did not want the situation to escalate further.

Witness 2 stated that the passenger was down on the ground at one point with the officers standing over him but there was never a point when the passengers and officers "rolled around" on the ground. Witness 2 stated that the officers and the passenger "tussled" for approximately twenty minutes before Officer B officer handcuffed the passenger's left hand to the gate outside the store. Witness 2 never heard the passenger say anything.

Officer A stood in front of and very close to the passenger handcuffed against the gate. Witness 2 estimated the distance at less than a foot. Witness 2 saw Officer A officer pull out his gun, a silver and black automatic, and shoot the handcuffed passenger once. The handcuffed passenger turned around and dropped to the ground. Witness 2 stated that he clearly saw the passenger's free right hand and at no time did the passenger have a weapon or reach for a weapon. Officer B never pulled out his weapon. When Officer A shot, Officer B backed away and called for more officers on a radio. The officers never asked for "backup" until after Officer A discharged his weapon.

Officer A called to the driver to get out of the car and sit on the curb. Witness 2 related that Officer A seemed "disorientated" to Witness 2 and was acting "bossy" until more

³ Now identified as Officer B and Officer A

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officers arrived. The passenger was not searched prior to the arrival of the other officers or before being put in the ambulance. Witness 2 found this odd since he had been shot and Officer A should have removed his weapon if he had one. Witness 2 stated that he never saw the passenger with a weapon and the lack of the search after he was shot further indicated to him that the passenger had been unarmed. The driver was yelling, "Why did you do that" after the officer shot him. (Att# 39)

On 01 January 2010, **Witness 3**, provided the Independent Police Review Authority with a digitally recorded interview. Witness 3 related that she and her sister-in-law, Witness 1 were sitting in a parked vehicle on the northwest side of 75th Street, across the street from the location of the incident. Witness 3 exited the vehicle and she went into the store she heard a loud commotion coming from across the street. Witness 3 and Witness 1 exited the store, looked across the street and observed two police officers, now known as Officer B, a white male and Officer A a black male "scuffling" with an unknown black male now identified as Subject 1. Subject 1 appeared to be flailing his arms to get away from the officers and protect himself. The officers were punching Subject 1 about the body. There was also a second unknown black male, now known as Subject 2 standing on the street next to a vehicle.

The officers had Subject 1 in a "headlock" and trying to get him to the ground. Officer A yelled out that Subject 1 was trying to get his gun. Officer A yelled to Officer B, "Draw your gun, shoot the motherfucker!" "He's got his hand on my gun." Officer B had his gun out but did not fire. Witness 3 then observed that Officer B handcuffed Subject 1 by his left arm to a gate. Suddenly Officer A took a step backward and fired his weapon. Subject 1 slumped to the ground. Witness 3 observed blood coming his Subject 1's lower back.

Witness 3 related that Subject 1 was facing the fence and his back was toward Officer A when Officer A fired his weapon. Subject 2 yelled out, "Why did you do that, man?" Officer A stated, "Get over here motherfucker!" Officer A handcuffed Subject 2.

Witness 3 related that she did not see a gun on either Subject 1 or Subject 2.

Witness 3 related that Witness 1 recorded the incident on her mobile phone camera and she contacted 911. (Att# 42)

On 01 January 2010, the witness, **Subject 2**, provided the Independent Police Review Authority with a digitally recorded interview. Subject 2 related that on the date of the incident he and his nephew, Subject 1, were traveling in a vehicle, in which Subject 2 was the driver. The vehicle was traveling eastbound on 75th Street going to Lim's Barbeque. Subject 2 missed the turned into the lot and turned his vehicle around. Subject 2 observed that Officer A and Officer B had a vehicle stopped in the area. The officers were double-parked in the middle of the street. Subject 2 drove by the officers and the passenger side door of the officer's vehicle opened causing Subject 2 to slam on his brakes.

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Subject 2 continued and as he drove on 75th Street, he observed police lights behind him. Subject 2 stopped his vehicle, but he realized that he was blocking a side street, so Subject 2 moved his vehicle forward so not to block the street.

The officers pulled up behind him. The black officer, now known as Officer A approached the drivers' side and stated, "Why didn't you pull over right way? Why didn't you pull over?" Subject 2 replied, "Cause it was blocking the street. I just pulled over and park, you know, without blocking the street." Officer A pulled Subject 2 out of the vehicle and Officer B pulled Subject 1 out of the passenger side of the vehicle.

Officer B conducted a pat down of Subject 1 and stated, "This one has a gun." At that moment, Officer A ran over toward Subject 1, grabbed his arm and twisted it behind his back. Subject 1 yelled out in pain. Subject 2 yelled, "Why you got to twist his arm like that?" Officer A grabbed Subject 1, placed him in a headlock, began choking him, and yelled, "He is going for my gun, shoot this mother fucker, shoot this motherfucker!"

Officer B holding Subject 1's left arm and standing to the left of Subject 1, replied, "I aint going shoot!" Officer B grabbed Subject 1's right arm and both officers handcuffed him to a security bars. Officer A took a step a back approximately six feet from Subject 1, facing him and shot Subject 1 in the stomach. Subject 1 slumped over and the officers removed the handcuffs. Officer A instructed Subject 2 to walk toward him. Officer A handcuffed Subject 2 and sat him on the curb. Officer A approached Subject 2, grabbed him by the handcuffs and forcibly brought him to his feet. Officers placed Subject 2 in the rear of a squadrol.

Subject 2 related that Subject 1 did not struggle with the officers. Subject 2 did not observe either officer remove a weapon from Subject 1's person. Subject 2 did not see Subject 1 grab for the holster of either officer. Subject 2 related that he heard Officer B say, "This one's got a gun." However, Subject 2 had no knowledge that Subject 1 had a gun on his person. (Att#47)

On 01 January 2010, **Witness 4** provided Independent Police Review Authority with a digitally recorded interview. Witness 4 related that on the date of the incident he was exiting a liquor store when he observed a black male now known as Subject 1 tussling with two officers, Officer A and Officer B. The three were tussling back and forth on the ground. Witness 4 observed Subject 1, who described as 6'4 in height, reach toward Officer A's weapon. The three made it to their feet and continued to struggle. Officer A grabbed Subject 1 in a chokehold. Officer A attempted to take Subject 1 to the ground. Witness 4 then heard Officer A yelled, "He got my gun. He got my gun!" The officers were yelling, "Don't refuse!"

Officer A and Subject 1 were on the ground wrestling. The officers maneuvered Subject 1 to his feet. Officer A and Subject 1 continued to tussle when Officer B moved behind Subject 1 grabbed his left arm and handcuffed him to a security bar. Officer B was behind Subject 1, who was facing Officer A. Officer A jumped up,

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stepped back and drew his weapon. Suddenly Subject 1 appeared to raise his right arm in an upward motion toward his face, and Officer A fired one shot.

Witness 4 related that he was approximately 30-35ft from the incident and he did not observe a weapon on Subject 1. Witness 4 related that he heard one shot. (Att# 48)

On 08 March 2010, an attempt to obtain an interview from the involved Subject 1 was made. Subject 1 refused to provide an interview. (Att# 34, 35).

Chicago Fire Department EMS Run Sheet reflects that Subject 1 informed the paramedics that he was wrestling with officers when he was shot. Subject 1 presented with a gunshot wound to the left buttock and to his groin, pubic area. No other injuries noted.

Medical records obtained from Christ Hospital reflects Subject 1 presented with a gunshot wound to the abdomen area and left buttock. Subject 1 sustained injury to his bladder and a low anorectal injury.⁴

Video surveillance obtained from A&S Liquors depicts a marked police vehicle stopped a vehicle on the southeast side of 75th Street. A male officer approached the vehicle on the driver's side. The driver's side door appears to open and a figure steps out of the vehicle. There are numerous vehicles passing the area blocking the encounter between the figures. There appears to be three people who appear to be tussling on the sidewalk. The three people appear to come to their feet and move toward a building. Suddenly one of the figures takes a step backward. At that point, the images are not very clear and are distorted. (Att# 31, 32)

General Offense Case# HS100793 and the Case Supplementary Reports reflects an account as provided in the Summary of Incident. Witnesses, Witness 4, Witness 1, Witness 2, and Witness 3 spoke with detectives and provided an account of the events as reported in the Summary of Incident.

The Detective Supplemental Report indicated that Witness 1 related to CPD Detective 2 that on the date of the incident, she observed Chicago Police Officers stop a vehicle on East 75th Street. The driver of the vehicle appeared to be cooperating with the officer on the driver's side of the vehicle. The passenger in the vehicle exited the vehicle and began to argue with the officer on the passenger side. Witness 1 yelled to the passenger of the vehicle to cooperate with the officer. A struggle ensued between the officer on the passenger's side and the passenger some time during the struggle, the white male officer was able to get a handcuff on the passenger. At that point, the black male officer yelled, "Shoot him, shoot him!"

The Detective Supplemental Report indicated that Witness 4 related to CPD Detective 2 that on the date of the incident, he observed the marked police vehicle

⁴ Pertaining to anus and the rectum

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stop a blue car for a traffic violation. Witness 4 stated that the driver exited the vehicle and then the passenger exited and he began to “tussle” with the police officer.

The passenger was resisting all attempts by the police officers to be placed into custody. Witness 4 stated that the driver remained clam and he did not become involved in the struggle.

Witness 4 stated that the black male officer on the driver’s side came to the assistance of the white male officer. During the struggle, the white male police officer was able to get one handcuff on the passenger’s hand and handcuff him to a nearby security gate. Witness 4 then heard a single gunshot, but he did not know who fired the gunshot.

The Detective Supplemental Report indicated that Witness 2 related to CPD Detective 1 that on the date of the incident, he observed the occupants of the vehicle exit the vehicle and driver appeared to comply with the officers, but he passenger began to resist the officer on the passenger side of the vehicle.

A struggle ensued on the passenger’s side of the vehicle and during the struggle, Witness 4 heard someone yell, “He’s trying to grab my gun.” A short time later, the black officer shot the passenger that was struggling with the officer.

The Detective Supplemental Report indicated that Witness 3 on the date of the incident that the passenger on the vehicle exited his vehicle and began to struggle with the police, but the driver of the vehicle did not resist in any manner.

Witness 3 stated that she and her companions told the passenger not to resist the police. Witness 3 stated that one of the officers shot the passenger. (Att# 44-45)

On 01 January 2010, CPD Detective 3 advised Subject 1 of his rights and Subject 1 agreed to provide an interview. Subject 1 related that he was riding with his uncle, Subject 2 when they were pulled over by Chicago Police Officers. Subject 1 was afraid while speaking with the officers. Subject 1 admitted that he had a gun and that he carried the weapon for protection. Subject 1 refused to answer further questions and CPD Detective 3 terminated the interview. (Att# 44, 45)

CPD Detective 5 interviewed the witness, Witness 5. Witness 5 related that both officers who were in plain clothes stopped a vehicle. The white male officer approached the passenger side of the vehicle and the black officer approached the driver’s side of the vehicle. The officers removed the occupants from the vehicle. The passenger attempted to flee from the officer but the officers caught him and a struggle ensued. The black officer handcuffed one hand of the passenger to a burglar gate at 305 East 75th Street. Witness 5 heard the black officer tell the white officer to shoot the passenger, but he refused. The white officer walked over to the police vehicle toward the driver. Witness 5 then observed the black officer draw his weapon and shot the passenger one time. The black officer then returned to his vehicle, got on the radio and began to

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speak.⁵ Witness 5 was unable to provide further information and the interview was terminated. (Att# 44, 45)

In the **Arrest Report** in regards to Subject 1 in essence related the same the information as reported in the Summary of Incident and the General Case and Supplementary Reports. (Att# 4)

The **Tactical Response Reports** from the involved officers indicate that Subject 1 failed to follow the officers verbal commands, stiffened his body and pulled away from the officers in an attempt to defeat arrest. The officers responded with their presence, verbal instructions, arm-bar and take down/emergency handcuffing. Officer A discharged his weapon, one (1) round fired. (Att# 5, 7)

Officer's Battery Report from the involved officers described the officers as sustaining non-fatal injuries. (Att# 6, 8)

The Office of Emergency Management and Communication (OEMC) Event Query reflects calls from a female who identified herself as Witness 1. Witness 1 reported to 911 that she observed police shot a male on the street. (Att# 46)

In a report from the **Illinois State Police Lab (ISP)** dated 22 July 2010 reflects that Officer A's weapon a Smith and Wesson 9mm Bay-7526 was in good firing condition.

One fired bullet a 9mm caliber exhibited five lands and grooves with a right hand twist.

The weapon associated with Subject 1 a Taurus Model PT 24/7 9mm was found to be in good in firing condition. A test was fired and was compared to the IBIS database; however, no identification was made.

The barrel of Taurus Model PT24/7 9mm exhibited rifling of six lands and grooves with a right hand twist.

Additional tests reveal that there is insufficient human DNA on the officer's weapon to analysis. (Att# 43)

Evidence Technicians photograph depict the location of incident, the location of recovered fired casings, the involved vehicle, and the involved officers and their injuries. (Att# 37)

In a formal, interview taken at IPRA on 06 October 2010, at 1355 hours, by IPRA Investigator A, **Officer A**, related that the date of the incident he and his partner, Officer B were traveling behind a vehicle driven by Subject 2 and carrying the passenger Subject 1. Officer A observed that Subject 1 and Subject 2 were not wearing seat belts.

⁵ Did not hear what was said

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Officer A activated the emergency equipment and pulled the vehicle over. Officer A and his partner, Officer B exited their vehicle with their weapons holstered and approached the vehicle. Officer A approached the vehicle on the driver's side and Officer B approached the passenger side. As Officer A approached, the vehicle he looked into the rear window of the vehicle and observed that the occupants were moving around inside the vehicle. The officers ordered Subject 2 and Subject 1 out of the vehicle.

Subject 2 and Subject 1 exited the vehicle. Officer A began speaking with Subject 2. Officer B was on the passenger side of the vehicle attempting to conduct a pat down of Subject 1. Subject 1 made quick move to his left and to the right of Officer B and attempted to flee. Officer B grabbed Subject 1 and the two began to struggle. Officer A ran over to the two became engaged in a struggle with Subject 1. The officers maneuvered Subject 1 to the ground. At one point, the officers and Subject 1 were on their feet struggling against a fence. Officer A, who is a left-handed shooter, was standing in front of Subject 1 who was facing north, slightly to the west of Subject 1. Officer B was to the east of Subject 1.

As the officers were attempting to handcuff Subject 1, he continued to struggle. Officer A observed a handgun in the waistband on the right side of Subject 1's pants. Subject 1 reached forward and grabbed Officer A's weapon. Officer A grabbed Subject 1's left arm and yelled, "He got my gun, he got my gun shoot this motherfucker!" Officer A yanked his body away and broke Subject 1's hold of the weapon.

Officer A took several steps backwards and observed Subject 1 reaching for the weapon in his waistband, but he was unable to recall if Subject 1 touched the weapon. Officer A pulled his weapon from his holster and fired one round. Subject 1 fell to the ground. Officer B approached Subject 1 and removed the weapon from Subject 1's waistband. (Att# 52)

In a formal, interview taken at IPRA on 06 October 2010, at 1320 hours, by IPRA Investigator A, **Officer B**, related that at the time of the traffic he and his partner, Officer A exited their vehicle. Officer B approached the passenger side of the vehicle and as he approached the vehicle, he observed the occupants inside the vehicle turning around and looking through the rear window. Officer B was unable to the hands of the occupants. Officer A instructed the driver, Subject 2 to step out of the vehicle. Officer A stood behind Subject 2 and conducted a protective pat down of him, Officer A then escorted him to the rear of the vehicle.

At that point, Officer B instructed Subject 1 to exit the vehicle and place his hands on top of the vehicle. Subject 1 complied. Officer B escorted Subject 1 to the rear of vehicle and instructed him to place his hands on the vehicle. Subject 1 did not comply. Subject 1 suddenly turned away from Officer B and started to run. Officer B grabbed him by the upper part of the torso and the two began to struggle. Officer B gave several verbal commands for Subject 1 to stop but he failed to comply. Officer A ran over to assist and the officers were able to maneuver Subject 1 to the ground.

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During the struggle, Officer B moved in front of Subject 1. Subject 1 struggle to get to his feet and during the struggle, Officer B observed Subject 1's his shirt lift up and a gun in his waistband. Officer B yelled to Officer A that Subject 1 had a gun. Officer B then felt Subject 1's hand on his weapon and felt him pull at the weapon. Officer B never lost control of his weapon. Officer B grabbed Subject 1's left arm and attempted to handcuff him, Officer B broke free from Subject 1's hold of the weapon and suddenly he heard Officer A yell, "He's got my gun, [Officer B's First Name], he's got my gun."

Officer B managed to grab his handcuffs and place a cuff on Subject 1's left wrist, at which point, Subject 1 got to his feet. Officer B and Officer A maneuvered Subject 1 against a security gate, and Officer B placed the second cuff to the fence.

Officer B stepped back from Subject 1 when he observed Subject 1 with his right hand reach in a downward motion to the right side of his waistband. Officer B drew his weapon. Officer B then heard one shot and observed Officer A with his weapon drawn and pointed in the direction of Subject 1. Subject 1 fell to he ground and Officer B stepped next to Subject 1 and removed the weapon from his waistband. Officer B related that he sustained abrasions to his hands during the incident. (Att# 54)

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CONCLUSION and FINDING:

This investigation found that the use of deadly force by Officer A was in compliance with Department policy.

According to the Chicago Police Department's General Order No. 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 believes that the person 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;
 - 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."

Officer A's actions complied with the requirements of the Department's deadly force policy. During a traffic stop and the subsequent extraction of the occupants, Subject 2 and Subject 1 from the vehicle, Subject 1 became engaged in a physical altercation with the officers. It was during the altercation that at various times Subject 1 attempted to take the officers weapons. Subject 1 first tried to gain control of the officer's weapons, but the officers were able to maintain control of their weapons.

Officer B observed a weapon in Subject 1's waistband. Officer B informed Officer A of the weapon. During the struggle, Officer B placed a handcuff on Subject 1's left wrist and secured him to a fence. Although, Subject 1's left arm was handcuffed, using his right hand, he attempted to draw a weapon from his waistband. Officer A, in fear for his life and that of his partner, fired his duty weapon. The bullet struck Subject 1 in the abdomen.

The witnesses Witness 4, Witness 2 and Witness 3 were located across the street from the incident and related in their statements that they did not observe a weapon on Subject 1. Subject 2 related in his statement that he had no knowledge that Subject 1 had a gun on his person, but heard Officer B say aloud, "This one's got a gun!" In an interview with Area Two Detectives, Subject 1 related that he had a gun on his person for protection.

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The video images depict vehicles parked on the street at the time of the incident obstructing the whiteness's view of Subject 1. Witness 4 related that he had on his reading glasses at the time of the incident and could not see the officers and Subject 1 across the street. He also related that he did not see a weapon on Subject 1. Subject 1 was wearing a winter jacket at the time of the incident. The driver of the vehicle, Subject 2, heard the officers say during the struggle that Subject 1 had a gun on his person. The witnesses related that they heard the officers yell that Subject 1 was able to grab their weapons. The witnesses, who were across the street from the encounter, did not see Subject 1 reach for his weapon in his waistband. The officers were right next to Subject 1 and were in the best position to see him reaching for his weapon.

Officer A fired to prevent death and or great bodily harm to himself, his partner, and others. During the struggle, Subject 1 attempted to take control of the officer's weapons. Subject 1 first tried to grab Officer B's gun and later her tried to grab Officer A's gun. Finally, Subject 1 attempted to draw a weapon located in his waistband. Both officers confirm that during the encounter Subject 1 attempted to grab each officer's weapon. When Officer A fired, he reasonably believed that he and his partner were in danger or great bodily harm or death from Subject 1.