

**INDEPENDENT POLICE REVIEW AUTHORITY  
U#10-04/LOG 1033337**

**INVESTIGATION**

**NUMBER:** LOG#1033337/U#10-04

**OFFICER #1**

**INVOLVED:** “Officer A” (Chicago Police Officer); Male/White; 39 years old;  
On Duty; Civilian Dress; Year of Appointment – 1996

**OFFICER’S**

**INJURIES:** Contusion to right thigh; treated and released from West Suburban  
Hospital

**OFFICER #2**

**INVOLVED:** “Officer B” (Chicago Police Officer); Male/Asian; 37 years old;  
On Duty; Civilian Dress; Year of Appointment – 2003

**SUBJECT:** “Subject 1”; Male/Hispanic; 26 years old

**SUBJECT’S**

**INJURIES:** 11 GSW to arms, back and chest; guarded condition at Mount  
Sinai Hospital

**DATE/TIME**

**OF INCIDENT:** 21 January 2010, 1937 hours

**LOCATION:**

4331 W. Augusta Blvd, Chicago  
Beat of Occurrence 1111

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### **SUMMARY OF INCIDENT:**

On 21 January 2010 at approximately 1937 hours, Officers A and B, were on patrol and assigned to Beat 2561B driving an unmarked squad car when they received a phone call from an off-duty Department member, CPD Sergeant B. CPD Sergeant B proceeded to tell them that a friend of his, [Stolen Car Victim], had reported his Jeep Cherokee stolen on 20 January 2010. He went on to explain that [Stolen Car Victim] had been informed that his vehicle had been recovered and was towed to the city's impound lot at 1310 N. Harding. However, when [Stolen Car Victim] had called the lot to inquire about his car, he was told that the vehicle had once again been stolen and had never made it to the impound lot after all.

After receiving the phone call from CPD Sergeant B, Officers A and B drove over to the area of the impound lot at 1310 N. Harding. Upon arriving, they discovered [Stolen Car Victim]'s vehicle parked on the street. The two officers set up surveillance and within minutes observed three individuals (now known as, Subject 1, Witness 3 and Witness 2) come out of a nearby house and get into the vehicle with Subject 1 taking the driver's seat. The two officers followed the vehicle for several streets. As they were heading westbound on Augusta Avenue, the officers decided they were going to curb the vehicle, so they radioed for assistance.

CPD Sergeant A of Beat 2561 responded to the officer's request. At around the 4300 block of Augusta, Officer A, who was driving the unmarked car, activated his emergency lights and curbed the stolen vehicle. The stolen vehicle pulled over slightly to the north side of the street on Augusta. CPD Sergeant A got behind Beat 2561B and stayed behind the officer's vehicle, initially not getting out. Officer A then positioned his unmarked car in front of the stolen vehicle in an effort to block it from trying to drive away. The two officers then proceeded to get out of their car when suddenly, Subject 1 backed up, then pulled forward. As Subject 1 backed up, CPD Sergeant A got out of his car and started to walk towards both vehicles.

Officer A, who was still getting out of the car at this time, dropped his flashlight on the ground. As he bent over to pick the flashlight up, he looked up and noticed the headlights of the stolen vehicle coming straight at him. The right side of the stolen vehicle then struck Officer A on his right knee. Officer A fired twice at the vehicle striking it on the hood. Officer B ran along the passenger side of the stolen vehicle. As the vehicle continued moving, Officer B saw Officer A fall back. Because he then believed that Officer A had been hit by the stolen vehicle and/or was possibly still in the line of the vehicle, Officer B shot six times at Subject 1 from his position on the side of the vehicle. At this point, CPD Sergeant A removed himself from the line of fire by moving towards the front of the vehicle on the driver's side. The stolen vehicle then drove for several more feet forward before it finally stopped. The two officers then radioed for assistance and for an ambulance.

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Subject 1, driver of the stolen vehicle was transported to Mount Sinai Hospital and treated for injuries due to multiple gun shot wounds including: fractures of the third and questionably second right rib, comminuted fracture of the right mid ulna, a comminuted, angulated mid left radial fracture and a right lung contusion. He was discharged on 25 January 2010. Officer A was treated and released the same day at West Suburban Hospital.

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### INVESTIGATION:

On 26 January 2010, a **Roundtable** panel was conducted regarding an officer involved shooting. Three involved officers appeared before the Roundtable panel.

**CPD Sergeant A**, related to the Roundtable panel that on the date and time of the incident he was working Beat 2561 alone. He heard Beat 2561B's request for assistance and arrived at the location of 4200 W. Keeler at approximately 1930 hours. CPD Sergeant A got behind Beat 2561B's vehicle and stayed there while the officers conducted the traffic stop. CPD Sergeant A observed that when the stop was initiated, the subject's vehicle started to slow down and Officers A and B moved their vehicle forward and in front of the subject's vehicle. The subject's vehicle backed up and CPD Sergeant A got out of his vehicle and started to walk toward the two vehicles. CPD Sergeant A observed Officers A and B begin to walk around to the front of the subject's vehicle. Officer A walked in front of the vehicle yelling, "Get out of the car!" About this time, Officer A dropped his flashlight and CPD Sergeant A saw the stolen vehicle moving forward towards Officer A. Officer A, who was standing on an angle to the vehicle, fired his weapon two times at the vehicle. At that time, CPD Sergeant A was standing behind the vehicle on the driver's side. CPD Sergeant A observed Officer B on the passenger side of the vehicle with his weapon drawn. CPD Sergeant A removed himself from the line of fire by moving towards the front of the vehicle on the driver's side. Officer B fired several times at the occupants of the vehicle. CPD Sergeant A stated that the shots were fired in quick succession from the time when Officer A fired his weapon. CPD Sergeant A approached the vehicle and saw three occupants inside the vehicle and heard someone yell, "Shut off the car!" The vehicle was still in gear. With the assistance of one of the vehicle's occupants, CPD Sergeant A shut off the vehicle. CPD Sergeant A advised that all of the vehicle's emergency lights were activated at the time they attempted to curb the vehicle.

**Officer A** related to the roundtable panel that upon observing the stolen vehicle parked in front of 1310 N. Harding, he exited his squad car and placed his palm on the hood of the vehicle. Noting that the hood was still warm the officers decided to conduct surveillance. Several minutes later they observed three subjects exit a house and enter the stolen Jeep. The officers followed the stolen vehicle for several blocks, west on Division, south on Keeler, then west on Augusta. Once the stolen vehicle turned west on Augusta, they activated their emergency lights, but not their siren and requested assistance. When CPD Sergeant A was behind them, they initiated the traffic stop and pulled their vehicle in front of Subject 1's vehicle in order to box it in. As Officer A got out of his vehicle, his flashlight fell to the ground. As he bent to retrieve it, he heard an air horn. Officer A heard someone yell, "Stop the car!" Officer A looked up and the car was on him, striking his right knee. Fearing for his life, Officer A fired two shots at the vehicle and simultaneously heard his partner fire his weapon as well. Officer A estimated he was standing approximately 4-5 feet away from Officer B when he fired. Officer A stated his purpose in boxing in Subject 1's vehicle was because he wanted to make it so the stolen car had no means of exit. Officer A was treated and released at

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West Suburban Hospital. Officer A described the clothing he was wearing as civilian clothing, blue jeans and black vest with a star affixed to the vest.

**Officer B** related to the Roundtable panel that after they had initiated the traffic stop, and as he and Officer A were exiting their vehicle, Subject 1's vehicle reversed, and went around their squad car and towards Officer A. Officer B observed Officer A falling backwards and feared that his partner was still in the path of the vehicle and that Officer A's life was in danger. Officer B approached the window on the passenger side of the offender's vehicle, which was still moving slowly forward, and discharged his weapon. Officer B thought he fired three to four times but later he learned that he fired six times. Officer B estimated he was standing 5-10 feet away from the offender's vehicle and was standing approximately 5 feet away from Officer A when he fired his weapon. Officer B stated he was wearing civilian clothing, jeans, a black vest and a star on his chest.

In an interview with IPRA on 18 February 2010, **Witness 1** related that on the night of the incident she was at home when she first heard about two or three gunshots. About a second or two later she heard one to two more shots; another second or so lapsed and she heard about seven to eight more shots in rapid succession. She looked out her window and observed police cars and flashing lights and she came out and stood outside for a moment to observe what was going on. Witness 1 also observed an unknown make and model vehicle and two police officers taking one unknown male subject into custody.

In an interview with IPRA on 25 February 2010, **Witness 2** stated that on the date of the incident he, Subject 1 and a good friend of his, Witness 3, got into the stolen vehicle at Potomac and Harding. Subject 1 was driving, Witness 2 was in the front passenger seat and Witness 3 was in the back. As soon as they pulled out, they realized that the car behind them was an undercover police car based on the fact that the car had "M" license plates and the car was a Crown Victoria. They made a right onto Division off of Harding and then Witness 2 glanced over his shoulder to the right to verify that it was, in fact, police officers behind them. Subject 1 became angry at Witness 2 for looking to the rear and lashed out at him verbally. They proceeded down Division a few more blocks and then made a left onto Keeler or one of the "K streets." When they got to Augusta, they made a right, and that was when another undercover car cut them off and boxed them in. The officers never activated any flashing lights but when the officers jumped out of the car, they yelled "Police!" The car that cut them off contained two officers who immediately jumped out with their weapons drawn and told the three young men to, "Get the fuck out of the vehicle!" One of the officers who jumped out started walking directly towards the car that Witness 2 was in, while the other officer was not visible initially. Once they were cut off, Subject 1 stopped the car and threw his hands up. As the officer who was approaching them got closer, Subject 1 put the car in drive, turned the wheel to the left and accelerated to about 5 miles per hour to try to get around the officer. At that point, the officer who was approaching was about 3-5 feet away from Subject 1's vehicle. Subject 1 ended up making contact with the officer's right leg, causing the officer to fall down. The officer then fired a round that ricocheted off the hood of the car. A second round came immediately and was fired by the second officer standing to the right of the vehicle. Witness 2 believes that second shot hit Subject 1,

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because he heard him scream. The car was still in drive but no longer moving after this occurred. After the second shot was fired, Witness 2 jumped into the backseat with Witness 3 and showed his hands. However, he kept hearing shots getting fired into the car. He believes there were at least 5 shots after the initial two, if not more, without any pause in between. Witness 2 was panicked at this point but then noticed that there were officers coming from everywhere. Once all the shots were fired, Subject 1 was yelling, "I quit, I quit." He was then pulled from the vehicle and the car then inched forward. Another officer jumped in, stopped the car. Witness 2 and Witness 3 were removed from the vehicle, searched, and placed into separate vehicles. Witness 2 was unable to describe the two shooting officers besides saying they were two white male officers.

Attempts to interview **Witness 3** were unsuccessful. In a **To-From Subject Report** date 22 January 2010, IPRA Investigator 1 notes that Witness 3 initially stated that he would provide a statement to her but after looking at the Detective who stayed in the interview room with both of them, Witness 3 looked at IPRA Investigator 1 and asked if he "had" to give a statement.<sup>1</sup> When she informed him that the statement was entirely voluntary, he stated he did not wish to give a statement and that he would not change his mind in the future. At approximately 0535 hours, a second attempt was made to interview Witness 3, without a detective present but Witness 3 informed the R/I that he had not been intimidated by the detective's presence and was still not interested in providing a statement. On 18 February 2010, a personal visit was made to the residence of Witness 3, located at XXXX W. Holbrook in Chicago. IPRA Investigator 2 spoke with his grandmother, [Witness 3's Grandmother] and left a card. A letter was also subsequently mailed to Witness 3.

Attempts to interview **victim, Subject 1** were unsuccessful. In a **To-From Subject Report** date 21 January 2010, IPRA Investigator 3 notes that she went to the Mount Sinai Hospital Emergency Room in an attempt to obtain his statement. Subject 1 was able to speak to her but stated that he did not wish to speak to IPRA because he was in a lot of pain. He indicated that he would do so at a future time. On 9 February 2010, IPRA Investigator 2, went to Cook County Jail to attempt to interview Subject 1 a second time. Subject 1 read the required warnings and answered that he did not wish to answer any questions at that time either.

In an interview with IPRA on 22 January 2010, **Witness 4** stated that he lives at XXXX West Augusta Boulevard and that on 21 January 2010 he was inside his house, looking out his window, when he saw an unknown male standing by a car. He walked away and then saw lights flashing so he went to his door and looked out. Witness 4 stated that he had a clear view of the incident from his front porch. At that time, he saw three officers standing around a Jeep, telling the man to stop. The man in the Jeep did not really come to a complete stop "he kinda moved a little faster at one point."<sup>2</sup> That's when one officer shot him. The officer's cars were unmarked. The shooting officer was standing on the passenger side of the car. Witness 4 heard a total of three to four shots. The driver of the vehicle was then pulled out and an ambulance came and took him away.

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<sup>1</sup> To-From Subject Report of IPRA Investigator 1, Subj: Attempt to Interview Witness 3. 26 Jan 2010

<sup>2</sup> Statement of Witness 4, 22 January 2010, page 2.

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Attempts to contact **Witness 5 and Witness 6** via phone calls, certified mail and personal visits were unsuccessful.

A **canvass** of the location of the incident produced an eyewitness (Witness 4). Witness 4's interview is summarized within this report.

A **Vehicle Theft Case Report** for 21 January 2010 for the address of XXXX N. Harding shows a 2000 Jeep 4-Door Green, Illinois license plate BXXXX was recovered at 4331 W. Augusta and involved in a police shooting RD#HS-131190.

The related **Chicago Police Department Reports**, including: Original Case Incident Reports (RD #HS 130077 and HS# 131190), the Arrest Report (RD# 131190), Tactical Response Reports of Officers A and B (CB # 17777232), Officer's Battery Report (RD#HS131190) and Case Supplementary Report (RD#HS131190) provide accounts of the incident that are consistent with the Summary of the Incident. The interviews of Officer A, Officer B and CPD Sergeant A noted within the Case Supplementary Reports are consistent with their accounts during the Roundtable and their statements to IPRA. Victim Subject 1's account states that a friend he calls "[First Name]" (a member of the Cobras street gang), gave him the stolen vehicle earlier the day of the incident. Subject 1 did not know how [First Name] came into possession of the vehicle. Subject 1 stated that his friend, Witness 2, was riding in the front passenger seat and his friend, Mike was in the left rear. He stated that he knew both passengers for a couple months prior to the events. Subject 1 stated he was driving on Pulaski Road, near his residence when an unmarked police vehicle following behind him activated its flashing lights. Subject 1 refused to stop and drove on for several blocks. He stopped the stolen vehicle on Augusta. He then stated that a police vehicle stopped on the right side of him and there were more police in front of the Jeep. When he saw the police officers getting out of their vehicle and ordering him to get out, he attempted to drive away, going both forward and backward. He drove forward, toward the police officers who were on foot. However, he stated that he was not intending to strike the officers. Subject 1 stated that he never meant to strike the officer and he was just attempting to drive around them and away from the officers when they began to fire their handguns. Subject 1 was shot multiple times.

CPD Sergeant B stated that he had been contacted by the owner of the stolen vehicle, his friend [Stolen Car Victim], saying that when he contacted the auto pound to claim his vehicle, he was informed the vehicle was not there. CPD Sergeant B contacted Officer B, asking him to check the address of recovery to see if the vehicle was still there.

**Crime Scene Processing Report No. 113942 and 113921** indicate that the clothing, biological evidence/DNA from Officers A and B's weapon, bullets were collected and photographed.

An **Illinois State Police, Division of Forensic Services** report, dated 11 February 2010 indicated that Officer A's weapon (Smith and Wesson, model 4586, .45 auto caliber

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semiautomatic pistol serial # VHN9485) was examined and found to be in firing condition and test fired. Officer B's weapon (Sig Sauer, model (226, .9mm parabellum caliber semiautomatic pistol, serial # U670852) was examined and found to be in firing condition and test fired. Six Winchester .9mm Luger +P caliber fired cartridge cases were fired. Two Speer .45 auto caliber fired cartridge cases were fired as well.

**POD 871** located at 4200 W. Augusta Blvd, for the date of 21 January 2010, between the hours of 1900 to 2000 hours depicted no police activity.

The **Office of Emergency Management and Communications (OEMC)** Event Query and recording of calls provides information consistent with the Summary of the Incident and the Involved Officers accounts of the incident. In addition, an unknown female caller who stated that she lived in the 4300 block of Augusta reported hearing two shots fired, a pause, and another three shots. She did not personally observe the shooting. A second call received by dispatch from an unknown male reported hearing four gunshots coming from an alley between 4300 to 4400 block of Augusta. This caller also did not report personally observing any of the events.

**Medical Records** for victim, Subject 1 reveal that he was transported to Mount Sinai Hospital by the Chicago Fire Department who noted multiple gunshot wounds to his chest and arms. At Mount Sinai Hospital, further testing revealed that Subject 1 had sustained a right pulmonary contusion, multiple gunshot wounds (11 in total) to both upper extremities and chest, bilateral open comminuted fractures of the ulnar shaft, retained bullet fragments in his left forearm, and motor and sensory deficits of the right median and radial nerves. He had surgery to repair the two ulnar fractures in both of his forearms and was discharged to police custody four days after admission.

In a statement to IPRA on 07 February 2012, **Witness CPD Sergeant A** stated that he received a call for assistance from Officers A and B, stating that they were following a stolen vehicle. He immediately started responding to that area and several minutes later he caught up with both vehicles traveling westbound on Augusta, near Keeler. As he approached, he observed his tactical officers in their vehicle and the reported stolen vehicle ahead of them. After he informed the officers of his presence they proceeded to effect the traffic stop by turning on their lights and sirens. The stolen vehicle pulled over and Officers A and B cut in front of it to curb it because it was still kind of rolling. CPD Sergeant A came behind the stolen vehicle, positioned his car behind it, and got out. The other officers also got out of their vehicle and began approaching the stolen vehicle. Officer A was directly in front of the stolen vehicle when he dropped his flashlight. As he reached over to pick it up, CPD Sergeant A positioned himself on the driver's side of the stolen vehicle and Officer B positioned himself roughly on the passenger side. At that time, the stolen vehicle sped forward and actually struck Officer A in the knee area. Officer A responded by firing two shots at the vehicle to stop it from moving. The officers began yelling, "Police, stop, stop!" The driver wasn't listening, ignored the commands, and started to proceed forward again. Fearing Officer A would get struck or hurt again, Officer B fired his weapon. Officer A fired two shots and he believes Officer B fired five or six. CPD Sergeant A never fired his weapon.



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The vehicle eventually stopped moving. After the subject was shot and the vehicle came to a stop they secured the vehicle, put it in park and pulled the offender out of the car.

In a statement to IPRA on 15 February 2012, **Involved Officer A** recounted that on the day of the incident, his partner, Officer B, received a phone call from CPD Sergeant B stating that a friend of his had gone to recover his stolen vehicle from the pound. When the friend went to the pound to recover it, the car was no longer there. CPD Sergeant B called Officer B to see if they could go over to Grand and Harding to locate the vehicle. Upon arriving, they observed the vehicle parked at a different location than, where they were told it had been initially recovered. Officer A got out of his car, felt the hood and grille of the stolen car, and noticed that it was still emitting heat. This was a sign to him that the car had just recently been driven. Officer A made the decision to set up surveillance about a block away. Approximately five minutes later, they observed three individuals approach the vehicle, get in and then drive away. Officer B radioed dispatch at that time. The stolen vehicle was headed westbound on Division near Pulaski when the officers asked for assistance. They then turned westbound on Augusta from Keeler, and that was when they heard CPD Sergeant A say that he was behind them so Officer A initiated the traffic stop. He turned on his emergency lights as did CPD Sergeant A. When the vehicle stopped, Officer A came around the vehicle and parked in a diagonal direction (the door of the police car to the front of the stolen car) about fifteen feet away from the stolen vehicle to avoid possible flight. Officer A then got out of his car, and while doing so the flashlight in his left hand hit the door and rolled to the southwest on the ground. He bent over to pick up the flashlight, then heard an air horn. Moments later he heard someone say "Stop the car!" As he picked up his flashlight and turned towards the stolen car, he saw it was already in the eastbound lanes and approaching him from about seven feet away. As soon as he saw the vehicle heading his way, he pulled his weapon out and fired the first shot just as the car struck him on the right thigh. The stolen vehicle continued moving forward, so Officer A fired one more round and then he was going to fire yet another shot but observed that CPD Sergeant A was in the line of fire so he stopped. He heard Officer B begin to fire just as he was firing his second shot or immediately thereafter. He believes Officer B fired approximately four shots in rapid succession. The stolen vehicle continued to move until the passenger from the back seat put it into park. After the shots were fired, he notified OEMC that shots were fired by police. He ran around to the front driver side door. CPD Sergeant A had already opened the door. The vehicle's passenger put it into park and Officer A pulled the driver out of the car. Officer A then received medical treatment from West Suburban Hospital for a contusion and bruising to his upper right thigh as a result of the contact with the stolen vehicle.

In a statement to IPRA on 05 December 2011, **Involved Officer, Officer B** stated that on the day of the incident he was working Beat 2561B with Officer A. He was in plainclothes in an unmarked squad car when he received a phone call from CPD Sergeant B stating that his friend's vehicle was stolen earlier and that when he had gone to the pound to reclaim it, it was no longer there. He was given a description of the vehicle and the address of 1310 Harding. Both officers proceeded to that location and when they approached, they saw the stolen vehicle was parked on the east side of the street. The

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officers got out of their vehicle and walked over to the stolen vehicle to inspect it. They found the grille to be warm, which meant it had possibly been driven recently. There were no occupants inside so they decided to set up surveillance just north of the vehicle's location. A few minutes later, they observed three males exit the alley from the south of Grand Avenue, get into the car and drive southbound on Harding. Officers A and B immediately began following the vehicle. They notified dispatch to provide the plate number of the vehicle and the officers then asked for assistance. They then attempted to curb the vehicle. They turned their emergency lights and sirens on, and were able to curb the vehicle near Augusta Blvd. CPD Sergeant A was on the scene by then and his car was to the rear of theirs. The stolen vehicle came to a complete stop. They then proceeded to block him in to prevent the vehicle from leaving. Both officers then got out of their cars. As they approached, the stolen vehicle began to reverse and Officer B yelled out, "Stop!" Officer A dropped his flashlight and after he had picked it up, he looked up and saw the vehicle coming at him and then striking his leg, so he fired his weapon twice. Officer B also fired his weapon about three to four times, because the vehicle continued moving and he feared for his partner's life. At that point, Officer A yelled, "Line of Fire!" because CPD Sergeant A was to the south of the vehicle on the sidewalk and he was in the line of Officer B's fire, so he discontinued discharging his weapon. CPD Sergeant A finally entered the vehicle to put it into park to secure it from moving any further. Officer B assisted by placing all the offenders into custody.

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### CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A and Officer B was 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's actions were in accordance with both conditions of CPD's use of deadly force policy. Both Officers observed Subject 1 driving a vehicle that was reported stolen. Subject 1 was boxed in by the officer's vehicles in an attempt to conduct the traffic stop, apprehend him and recover the stolen vehicle. Subject 1 attempted to escape this apprehension by going around the officer's vehicle and thereby striking Officer A with the stolen vehicle (a deadly weapon) causing him to fall and potentially endangering his life or inflicting great bodily harm. Officer B, both in fear for the life of his partner, and in an effort to prevent the escape of the offender, fired his weapon, striking Subject 1. Officer A used appropriate force, as Subject 1 was clearly employing a vehicle in a manner in which he could inflict death or serious injury on his person. In Subject 1's own interview with Chicago Police Detectives, he admitted that he did not exit the Jeep when he was instructed to and that he knew that getting caught in a stolen vehicle would result in him being sent back to prison."<sup>3</sup> In addition, he also told detectives that he attempted to drive away going both forward and backward, toward

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<sup>3</sup> Detective Supplementary Report, HS#131190, page 14 of 18

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police officers who were on foot. Therefore, based on the totality of the circumstances, Officers A and B were reasonable in their actions and justified in their use of force.