

INDEPENDENT POLICE REVIEW AUTHORITY  
LOG# 1034859/U# 10-11

**INVESTIGATION**

**NUMBER:** LOG# 1034859/U# 10-11

**OFFICER #1**

**INVOLVED:** “Officer A” (Chicago Police Officer); Male/White; 41 years old;  
On-Duty; In Civilian Dress; Year of Appointment – 1995

**OFFICER #2**

**INVOLVED:** “Officer B” (Chicago Police Officer); Male/Hispanic; 28 years old;  
On-Duty; In Civilian Dress; Year of Appointment – 2005

**SUBJECT:** “Subject 1”; Male/Hispanic; 21 years old

**SUBJECT’S**

**INJURIES:** One (1) gun shot wound to the left hip; one (1) gun shot wound to the right leg; three (3) gun shot wounds to the left arm; one (1) gun shot wound to the left hand; two (2) gun shot to the back; graze to the penis; one (1) gun shot to the left flank; and one (1) gun shot wound to the chest.

**INITIAL**

**INCIDENT:** Aggravated Battery to Police Officers

**DATE/TIME**

**OF INCIDENT:** 23 Mar 10, 2223 hours

**LOCATION:**

4228 S. Mozart Street (on the street)  
**Beat 912**

**SUMMARY OF INCIDENT:**

On 23 Mar 10 at approximately 2223 hours, Officers A and B, assigned to Area Four Gang Unit, were on surveillance in a covert vehicle, a 2003 Pontiac Grand Am. The officers were parked on the west side of Mozart, watching a residence on the 4200 block of Mozart Street. The subject, Subject 1 and his companion, Subject 2, walked northbound on the west sidewalk of Mozart, passing the officers' vehicle. Subject 1 and Subject 2 bent forward and peered into the vehicle. The officers removed their guns from their holsters and placed them on their laps. The officers radioed for a backup unit and informed them of Subject 1 and Subject 2's presence in the area. Moments later, Subject 1 and Subject 2 doubled back, walking southbound on the west sidewalk of Mozart, toward the officers' vehicle. Subject 1 approached the officers' vehicle, peered inside and with his right hand made a gang sign to the officers. Officer B motioned for Subject 1 to move on. Suddenly, Subject 1 pulled his left hand, wearing a white glove, out of his left pocket and pointed a gun at the officers. Officer B raised his gun from his side and fired. Officer A exited the vehicle, positioned himself at the hood of the vehicle, announced his office and ordered Subject 1 to drop his gun. Subject 1 turned toward the officers and fired. Officers returned fire and Subject 1 fell to the ground. Subject 2 fled on foot, northbound on Mozart Street with Officer A giving chase. Subject 2 was apprehended at 4210 S. Mozart Street. Officer B remained at the scene with Subject 1 and made notifications. As Officer A returned with Subject 2 he observed Subject 1's gun on the ground close to Subject 1 hand, so Officer A moved the gun away with his foot. Subject 1 was taken to Mount Sinai Hospital for treatment of multiple gunshot wounds. Subject 2 was not injured. Officers A and B were not injured.

## INVESTIGATION:

Officer B related to the Roundtable panel an account that was consistent with the Summary of Incident. Officer B added that he was the passenger in the covert vehicle and he and Officer A had been sitting in the car for approximately 35-40 minutes when he observed two males, now identified as Subject 1 and Subject 2, walking northbound on the west side of Mozart Street toward the officer's vehicle. As Subject 1 and Subject 2 walked by the vehicle, they peered in. Officer B got on the radio and informed the enforcement vehicle in the area of Subject 1's and Subject 2's presence in the area. Officer A picked up his cell phone and simulated having a conversation. Officer B then lost sight of Subject 1 and Subject 2. Moments later, Officer B observed them approaching from his rear view mirror. Subject 1 approached Officer B, peered inside and with his right hand made gang signs, and asking Officer B to identify his "set affiliation." Officer B, using his hand, motioned for Subject 1 to move along. Wearing a white finger glove on his left hand, Subject 1 reached inside a pocket, pulled out a gun and pointed it at Officer B.<sup>1</sup> Officer B raised his gun from his side and fired it through the passenger side window at Subject 1. Subject 1 stumbled and turned his back to Officer B. Subject 1 looked over his left shoulder toward Officer B, turned toward Officer B and fired at least one time. Officer B continued firing his gun until the slide locked. Officer B reloaded his gun, exited the vehicle, and announced his office as Subject 1 fell to the ground. As he fell, Subject 1 dropped his gun and removed the white glove from his hand. Officer B made notifications.

Officer A related to the Roundtable panel an account that was consistent with the Summary of Incident. Officer A added that he was the driver officer of the covert vehicle. Subject 1 reached into the inside of a pocket with his left hand which had on a fingerless glove, pulled out his weapon, and pointed it at Officer B. As Officer B fired his weapon through the closed passenger window, Officer A exited the vehicle, moved toward the hood of the vehicle and announced his office. Subject 1, who was facing Officer A, fired and Officer A returned fire. Officer A observed Subject 2 flee on foot northbound on Mozart Street so Officer A pursued him. Officer A apprehended Subject 2 at approximately 4210 S. Mozart Street and escorted him back to the location of incident. Officer A observed Subject 1 on the ground with his gun within reaching distance. Officer A used his foot to move the gun out of reach.

In a formal statement to the IPRA on 06 Apr 10, the Officer A provided an account of the incident that was consistent with the Summary of Incident, related Department reports and the account he provided to the Roundtable panel. The officers were going to serve a search warrant on a residence on Mozart Street and were conducting surveillance because they wanted to identify the target and vehicles coming and going from the residence. They were parked on the west side of the street in front of

---

<sup>1</sup> During the Roundtable Officer B stated that Subject 1 was wearing a white finger glove on his left hand and Officer A stated Subject 1 was wearing a white fingerless glove on his left hand. During their IPRA statements, both officers stated that Subject 1 was wearing a white glove (with fingers) on his left hand. The Crime Scene Processing report also indicated it was a white glove.

INDEPENDENT POLICE REVIEW AUTHORITY

LOG# 1034859/U# 10-11

a fire hydrant. When Subject 1 and Subject 2 initially passed by Officers A and B's vehicle, Officer A picked up his phone and pretended he was having a conversation so that they would think he and Officer B were waiting for someone. Both officers also drew their guns and placed them on their laps. After Subject 1 and Subject 2 continued walking north, Officer B notified their enforcement team of the two individuals because the officers had a "bad feeling" about them. Almost as soon as Officer B got off of the radio, they observed Subject 1 and Subject 2 making their way back south on the same side of the street. Subject 1 approached Officer B's side of the car and stood approximately 6-7 feet away, initially squatting down then standing up. Officer A observed Subject 1's hand go up but could not see what he did. Subject 1 approached the officers' car and was standing with his hip parallel to the car mirror.

Officer A observed that Subject 2 was standing near the trunk of their vehicle, also on the passenger side of the vehicle. With his hand, Subject 1 threw down the pitchfork.<sup>2</sup> Officer B waved his hand as if to say, "We're not on that." Subject 1's left hand was concealed in his pocket and as he pulled his hand out he was wearing a white glove and was holding a gun. Subject 1 pointed the gun at the Officer B and Officer B started firing at Subject 1. Officer A stated that he started trying to get out of the car but was having difficulty because he had his gun in one hand and radio in the other. As he got out of the car, he dropped his radio. Subject 1 still had the gun in his hand and was going backwards. Officer A heard Officer B yell, "Drop the gun!" Officer A said, "Police, Police!" and fired two to three times at Subject 1. Subject 1 fell to the ground and Officer A looked around for the other individual, Subject 2, whom he still considered a threat. Subject 2 was running northbound on the same side of the street and Officer A pursued him. Subject 2 tried to hide beside a van. Officer A instructed him to get out and Subject 2 complied. Officer A held him at gunpoint until Subject 2 put his hands up then grabbed his hood and pulled him to the ground. Officer A put his gun to the back of Subject 2's neck, patted him down for any weapons then handcuffed him and brought him back to Subject 1's area.

In formal statement to the IPRA on 06 Apr 10, the Involved Member, **Officer B** provided a statement that was consistent with the Summary of Incident, related Department reports and the account he provided to the Roundtable panel. Officers A and B were conducting a surveillance of a target for a search warrant. The residence they were watching had possible drugs and weapons inside. Officer B observed the two individuals, Subject 1 and Subject 2, walking and perceived them to be gang members based on their clothing and mannerisms. As Subject 1 and Subject 2 started walking back towards the officer's vehicle, Officer B already had his gun in his right hand and down by his leg. Subject 1 stopped near Officer B's door and Subject 2 stopped closer to the trunk area of the officer's car, but still on the sidewalk. Subject 1 had his left hand in his pocket and flashed a gang sign with his other hand and started walking towards Officer B's window, which was rolled up. Officer B tried waving his hand to as if to indicate that he and Officer A were not part of a gang but Subject 1 continued walking towards him. Subject 1 pulled his left hand out of his pocket and Officer B saw that he was

---

<sup>2</sup> This is a gang sign that is meant to degrade the Satan disciples or folks nation.

wearing a white glove. Subject 1 pulled out a gun and pointed it at Officer B. Officer B did not have the opportunity to lower his window or get out of the car; he raised his gun and fired it at Subject 1. Subject 1 started backpedaling, continuing to point the gun at Officers A and B and fired at them at least once. Officer B continued firing as Subject 1 turned his body away from them but kept his weapon pointed at them. Subject 1 reached the sidewalk and fell.

Officer B stopped firing because he ran out of ammunition. Officer B reloaded, exited the vehicle and said, "Police, drop your gun." Subject 1 flicked the gun a few inches from his hand and Officer B felt Subject 1 was no longer a threat and did not continue firing. Officer B kept his gun pointed at Subject 1 while he made notifications and requested an ambulance for Subject 1. Officer B did not know where Officer A was after Officer A exited the vehicle. Officer B was unaware that Officer A had fired his weapon and did not hear him fire. Officer B was unaware that Officer A had left the scene and only realized it when he observed Officer A returning with Subject 2.

An **attempt to interview** Subject 1 and Subject 2 was met with a negative result. Both refused to cooperate with the investigation.

A **canvass** was conducted, however no witnesses were located.

The **Chicago Fire Department Ambulance Report** indicates that paramedics responded to a call of a gun shot victim and found Subject 1 lying on his back on the grass with multiple gun shot wounds. Subject 1 was conscious and stated he was having trouble breathing.

The **Tactical Response Reports** from Officer A and Officer B indicate Officer B fired eighteen (18) times and Officer A fired three (3) times.

**Department reports** including the Case Supplementary report includes accounts of the incident that are consistent with the Summary of Incident, the IPRA statements and the accounts provided at the Roundtable.

The **Office of Emergency Management Communications (OEMC)** Event Query and CD provides information consistent with the Summary of Incident as to the reporting of shots fired by the police and ambulance requests.

The **Evidence Technician Photographs** and **Scene Videotape** depict the location of incident, the locations of recovered evidence and Subject 1 in the hospital.<sup>3</sup>

**Medical records** dated 23 Mar 10 from Mount Sinai Hospital for Subject 1 indicate he was treated for multiple gun shot wounds.

---

<sup>3</sup> The Crime Scene Videotape is a duplicate of the original video obtained by IPRA. The video was removed from the file and could not be located. A copy was requested and obtained.

INDEPENDENT POLICE REVIEW AUTHORITY  
LOG# 1034859/U# 10-11

**Medical records** dated 27 Mar 10 from Cermak Hospital for Subject 1 indicate he was given medical attention for the multiple gun shot wounds.

Reports from the **Illinois State Police, Division of Forensic Services (ISP)**, dated 27 Apr 10 and 14 Sep 10, reflect that of the fired evidence recovered at the scene and the hospital,<sup>4</sup> sixteen (16) fired cartridge cases (all located in or near the officer's vehicle, parked at 4224 S. Mozart Street) were identified as being fired from Officer B's gun; one (1) fired cartridge case (located on the street in front of 4224 S. Mozart Street) was identified as being fired from Officer A's gun; and one (1) fired cartridge case (located on the sidewalk of 4228 S. Mozart Street) was identified as being fired from Subject 1's gun.<sup>5</sup> Officers A and B's weapons were examined, found to be in firing condition and test fired. Subject 1's weapon was also examined, found to be in firing condition and test fired.

A report from the **ISP** dated 05 Aug 10 reflects that Subject 1's handgun, magazine, and five live rounds were examined but revealed no latent prints suitable for comparison.

A report from the **ISP** dated 22 Jun 10 reflects that the results of a Gunshot Residue Collection kit administered to Subject 1's right hand and the back of the his left hand were examined by Scanning Electron Microscopy (SEM) for the presence of Primer Gunshot Residue (PGSR) particles and indicated that Subject 1 discharged a firearm, contacted a PGSR related item, or had his right hand in the environment of a discharged firearm.

---

<sup>4</sup> Fired/unfired evidence locations were determined by cross referencing the Crime Scene Processing Report's photographs, markers and inventory numbers with the ISP reports dated 27 Apr 10 and 14 Sep 10.

<sup>5</sup> The ISP reports further indicated that two (2) fired bullet fragments, obtained from Mount Sinai Hospital, could not be identified or eliminated as having been fired from Officer A, Officer B or Subject 1's gun; one (1) fired bullet could not be identified or eliminated as having been fired from Officer B's gun but was not fired from Officer A's gun or from Subject 1's gun; and one (1) lead fragment was unsuitable for further microscopic comparison.

**CONCLUSION:**

This investigation found that the use of deadly force by Officer B and Officer A was in compliance with Department policy. According to the Chicago Police Department's General Order No. 02-08-03, III. *Department Policy:*

- 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 involved 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."

Officer B and Officer A's use of force was in compliance with the Department policy. Officer B and Officer A fired their guns after Subject 1 pointed a weapon at them and they reasonably believed they were in danger of death or great bodily harm. Subject 1 asked the officers their gang affiliation and immediately pointed a gun in their direction. The officers feared their lives were in danger and fired at Subject 1 and indeed, Subject 1 did fire his gun at the officers.