

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1037895/ U # 10-26

**INVESTIGATION**

**NUMBER:** Log # 1037895/U # 10-26

**INVOLVED**

**OFFICER:** “Officer A” (Chicago Police Officer); Male/Black; 38 years old; On Duty; Civilian Dress; Year of Appointment – 2003

**INVOLVED**

**OFFICER:** “Officer B” (Chicago Police Officer); Male/Hispanic; 35 years old; On Duty; Civilian Dress; Year of Appointment – 2005 (non-shooter)

**OFFICER**

**INJURIES:** Bruises and lacerations to his leg and arm

**SUBJECT:** “Subject 1”; Male/Black; 25 years

**SUBJECT**

**INJUIRES:** Multiple gunshot wounds, pronounced on the scene.

**INITIAL**

**INCIDENT:** Street Stop

**DATE/TIME**

**OF INCIDENT:** 08 July 2010, 1245 hours

**LOCATION:** 111 West 75<sup>th</sup> Street

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**Summary of Incident:**

On 08 July 2010, at approximately 1245 hours, Chicago Police Officers A and B, assigned to Beat 662 A in an unmarked black Chevrolet Tahoe, were on patrol driving eastbound on 75<sup>th</sup> Street. The officers observed a silver Pontiac Grand Am parked facing east at the south end of the parking lot of a Popeye's Chicken located at the corner of 75<sup>th</sup> Street and Perry. The officers observed a black male occupant (now identified as Subject 1) in the Grand AM.<sup>1</sup> The officers were familiar with the parking lot because they have both made arrests there for narcotics and weapon violations. Officer B drove into the parking lot and stopped the Tahoe facing south in the front of the Grand AM. The officers exited the Tahoe and approached the driver's side of the Grand AM. Officer B was the "business officer"<sup>2</sup> and asked Subject 1 for his identification. Subject 1 handed Officer B his driver's license and his mobile telephone. Officer B immediately returned the mobile telephone to Subject 1. Subject 1 put his vehicle into drive and moved forward, striking the Tahoe. Officer B reached into the window to the Grand AM in park, but he became lodged in the window. Subject 1 put his vehicle in reverse and backed up. Officer B remained stuck in the vehicle as Subject 1 went forward and struck the Tahoe again. Officer A, who had been standing to Officer B's right, saw this happening and yelled for Subject 1 to stop the vehicle. Subject 1 did not comply and Officer A, fearing for Officer B's safety fired four rounds striking Subject 1. Subject 1 was pronounced dead on the scene. Officer B was taken to Christ Hospital, where he was treated for injuries to his right arm and leg. Forensic Investigators recovered a Beretta 9mm handgun from Subject 1's left front pocket.

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<sup>1</sup> The vehicle was registered to [Car Owner], XXXX S. Ada, Chicago, IL

<sup>2</sup> Makes first approach request license and insurance from driver of the vehicle.

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**Investigation:**

CPD Detective 1, Unit 620 related to the Roundtable Panel that he interviewed the witnesses, **Witness 1 and Witness 2** on the scene of the incident. Witness 1 informed CPD Detective 1 that he exited Popeye's Chicken to return to his vehicle in the parking lot. Witness 1 saw the Tahoe pull into the parking lot and park in front of the Grand AM. Police officers exited the Tahoe and approached the Grand AM. Witness 1 heard the officers say "Stop the car!" The white officer (identified as Officer B) reached into the Grand AM. The black officer (identified as Officer A) fired his weapon at the driver of the Grand AM.

Witness 2 informed CPD Detective 1 that he was walking approximately two feet behind Witness 1. As they approached Witness 1's vehicle, Witness 2 heard the officers tell Subject 1 to stop the vehicle. Witness 2 saw Subject 1 attempt to maneuver the Grand AM around the Tahoe. Officer B reached into the Grand AM and Officer A fired his weapon at Subject 1.

In a digitally recorded interview given to IPRA on 17 July 2010, at XXXX S. Wells # XXX, the witness, **Witness 1**, related that he was standing approximately 10ft from the scene, but he was unable to see clearly into the vehicle. Witness 1 related that he observed a male black, now known as Subject 1 alone in the vehicle. The vehicle appeared to be backed into a parking space, facing forward. There was a median<sup>3</sup> behind the vehicle. Subject 1 appeared to be eating. Witness 1 related that as he approached his vehicle, also parked in the lot, he observed a black SUV pull into the parking lot of the Popeye's Chicken. The black SUV block a vehicle that had backed into a parking space in the parking lot. Two officers, one male black, now known as Officer A and a male white officer now known as Officer B, exited the SUV. The officers were in plain clothes, had their badges out, and present. Both officers approached the driver's side of the vehicle.<sup>4</sup> Officer B, who did not have his weapon drawn, approached the vehicle, whose windows were rolled down. The driver attempted to place the vehicle into gear. Officer B stated, "Sir, please put your car back in gear." Witness 1 observed that Subject 1 had his left

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<sup>3</sup> A medium is barrier at the front of a parking space.

<sup>4</sup> Witness 1 related that the officers did not announce their office as they approached the vehicle.

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hand<sup>5</sup> on the steering wheel. Officer B reached inside the vehicle and placed the vehicle in gear. Suddenly, Officer A, who was standing on the driver's side, stepped back, drew his weapon and discharged his weapon four times into the vehicle. Officer A got on the radio and requested assistance. Moments later, additional officers arrived on the scene. Officer A informed an officer that the Grand AM had struck him. However, Witness 1 related that at no time did he observe the Grand AM move forward. The officers did not appear to be in danger of being struck by the Grand AM.

In a digitally recorded interview given to IPRA on 10 September 2010, at XXXX S. Seeley, the witness, **Witness 2** related that during the incident he was standing approximately 15 to 20 ft from the scene. The officers a male black (Officer A) and male white (Officer B) were in a small black SUV. The officers pulled the vehicle into the parking lot and blocked the front of Grand AM. The officers stopped and exited their vehicle. The officers clearly had identifiers on their clothing. The officers had their badges around their necks and the words "POLICE" on the back of their vest. Witness 2 heard the officers identify themselves several times. The officers approached the gray Pontiac Grand AM. The Grand Am began to move forward, but it did not strike Officer B or the police vehicle. Officer B ran in front of the Grand AM to the passenger side of the vehicle, turned, and ran in front of the Grand Am to the driver's side of the vehicle, and yelled, "Stop the car, stop the car, turn it off!" At no time did Witness 2 hear Officer B state, "Sir, could you put your car in gear." As Officer B approached the vehicle on each side, he attempted to reach inside the vehicle and turn the vehicle off or grab the gearshift. The driver of the Grand Am began moving forward, and attempted to maneuver around the police vehicle, but was unable to move pass the vehicle. Witness 2 related that as Officer B reached inside the vehicle, the male black, Officer A, who was standing on the driver's side approximately two feet behind Officer B at an angle, removed his weapon pointed the weapon at the vehicle and discharged four times. Officer B reached into the vehicle and turned off the engine. When the shooting was over and additional, officers arrived on the scene, Witness 2 overheard Officer A inform a "commander" that Subject 1's vehicle struck Officer B. Witness 2 again stated that the vehicle did not strike Officer B.

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<sup>5</sup> Witness 1 related that he was only able to Subject 1's left hand through the window.

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CPD Detective 2, Unit 620, related to the Roundtable Panel that she interview **the witness, Witness 3**, who runs a day care center at XXXX S. Perry. Witness 3 informed CPD Detective 2 that she walked across the street to retrieve some items from her vehicle. As she did, Witness 3 saw the Grand Am parked in the Popeye's parking lot. After retrieving the items from her vehicle and going back to the front yard of XXXX S. Perry, Witness 3 saw the Tahoe enter the parking lot. Two officers approached the silver vehicle. The driver's side window was down and Witness 3 heard the officers talk with Subject 1 but could not hear what was said. Subject 1 handed something to the officers. Witness 3 assumed that it was a driver's license. Subject 1 then put the Grand AM in gear and drove forward and backward. The Hispanic officer (identified as Officer B) reached through the open window. Witness 3 thought he did this to get the keys. Subject 1 continued moving the vehicle forward and backward. Witness 3 turned away from the vehicle and heard a gunshot. Witness 3 looked back at the Grand AM and saw the black officer (identified as Officer A) fire his weapon.

In an digitally recorded interview given to IPRA on 09 July 2010 at 1245 hours, at XXXX S. Perry, the witness, **Witness 3** related that she exited her residence to go to her vehicle which was parked on the west side of Perry and adjacent to the Popeye's parking lot. Witness 3 observed a gray vehicle, Pontiac Grand AM, parked in the Popeye's parking lot. As she was walking back to her residence, Witness 3 noticed a black tinted police SUV truck pulled up in front of the Grand Am. Two plain clothed officers, one black and one Hispanic, exited the SUV and walked around to the driver's side of the Grand AM. The driver of the Grand AM appeared to provide the officers with his identification. The driver began to move his vehicle forward trying to maneuver past the officer's vehicle. Witness 3 heard the officers tell the driver to the put the vehicle in park. The Hispanic officer (Officer B) reached his arm inside the vehicle to place the vehicle in park. Officer B had his hand position inside the vehicle as to place the vehicle in park. The driver (Subject 1) pulled forward slowly and then went backwards. As the vehicle moved forward the second time at a very slow speed, possibly five mile per hour, Officer B stepped backward a foot and stood completely outside the vehicle. Both officers were standing on the driver's side of the vehicle. The black officer (Officer A)

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was standing approximately one foot from the vehicle proceeded to shoot the driver four times.

Witness 3 related that there was no commotion and that Officer B and Subject 1 were not fighting as Officer B attempted place the vehicle in park. As Officer B pulled himself back and out of the window, Officer A fired his weapon. The Hispanic officer (Officer B) was standing on the driver's side of the vehicle and did not appear to have been dragged.

**Officer B** related to the Roundtable Panel that he and Officer A were on routine patrol driving east on 75<sup>th</sup> street. As they approached the Popeye's parking lot, they observed the Grand Am parked at the south end of the lot with an individual (now identified as Subject 1) in the driver's seat. Officers A and B had both previously made arrests in that same parking lot. Officer B drove into the parking lot and stopped the Tahoe in front of the Grand AM. Officer B exited the Tahoe and walked around the back of the Tahoe to the driver's side of the Grand Am. Officer B announced his office and attempted to conduct a field interview with Subject 1. Officer B asked Subject 1 for his driver's license. Subject 1 gave Officer B a state ID card and mobile telephone. Officer B returned the mobile telephone to Subject 1. Subject 1 put the Grand AM in drive and drove forward, turning the wheel as he did which caused the Grand Am to strike Officer B. Officer B reached into the window to stop Subject 1 from driving further. The driver's side window was not fully open and Officer B became struck in the opening. Subject 1 reversed the Grand AM and drove forward again with Officer B still stuck in the window. Officer B repeatedly instructed Subject 1 to turn off the vehicle and stop but Subject 1 did not comply. Officer B was unsure whether Officer A, who was standing to Officer B's right, gave any orders because he was focused on giving his own commands. Officer B heard gunshots. The Grand Am struck the Tahoe and Officer B was able to get out of the window. Officer B saw that Subject 1 was injured. Officer A used his radio to report shots fired and asked for an ambulance. Officer B saw a large bundle of US currency in the cup holder in the Grand AM's center console. Officer B was transported to Christ Hospital where he was treated for bruises and lacerations to his leg and arm.

In a formal Question and Answer typed interview given at IPRA on 28 July 2010, Officer B related an account consistent with facts given at the Roundtable Panel. Officer

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B related that when he and Officer A initially observed Subject 1, he was sitting alone leaning back in his vehicle. Officer B drove the police SUV in front of the Grand Am in an attempt to stop the vehicle from leaving the area. Officer B and Officer A exited their vehicle. Officer B walked to the back of the vehicle to check for passengers. The vehicle was running. He then walked to the front of the vehicle to the driver's side along side Officer A, who was to the right of him.

Officer B asked Subject 1 for his license and insurance. Subject 1 gave Officer B his state ID. He then handed Officer B his mobile telephone. Officer B returned the mobile telephone. Officer B placed the ID on top of the Subject 1 vehicle. Suddenly, Subject 1 placed the vehicle in drive and turned the vehicle to the left striking Officer B on the right leg. Officer B stumbled in a backward motion, but did not fall to the ground. Officer yelled for Subject 1 to "turn off the car, turn off the car, and stop turn off the car!" Officer placed his hands inside he vehicle in an attempt to stop Subject 1 from turning the steering wheel to the left. Officer B grabbed hold of the steering wheel and yelled for Subject 1 to stop the vehicle. Officer B became lodged inside the vehicle. As the vehicle moved Officer B's feet were off the ground. The vehicle moved forward and backward. Suddenly, Officer B heard several gunshots and pushed himself off the vehicle.

Officer B managed to turn the engine off and get himself off the vehicle. Officer B learned later that Subject 1 had a weapon on his person.

**Officer A** related to the Roundtable Panel that he and Officer B were eastbound on 75<sup>th</sup> Street and observed a suspicious vehicle (the Grand Am) in the Popeye's parking lot. Officer B drove into the lot and parked in front of the Grand Am. Officer A exited the Tahoe and walked to the driver's side door of the Grand Am. Officer A was working in plainclothes, but his star was clearly visible. Officer B also went to that area and stood to Officer A's left. Officer A asked for Subject 1's identification, but Subject 1 failed to comply. Officer A asked if Subject 1 had any business in the parking lot. Subject 1 related that he was waiting for someone. Officer A again asked for Subject 1's identification, but Subject 1 just stared at Officer A. Subject 1 then put his vehicle into gear and drove forward, coming close to the Tahoe but not striking it. The officers told Subject 1 to stop the vehicle and put it in park. Officer B reached into the vehicle to stop

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it nut became lodged in the partially open window. Officer B was standing near the side mirror and reached into the vehicle to put his hand on the gearshift lever. While Officer B was inside the window, Subject 1 put the vehicle in reverse and then drove forward again, striking the Tahoe. Officer A repeatedly gave commands to Subject 1 to stop the vehicle and put it in park, but Subject 1 ignored him. Officer A fired his weapon at Subject 1 four times to prevent him from driving away with Officer B lodged in the window. Officer A was standing by the front driver's side door handle approximately one to two feet from the vehicle when he fired. Either Subject 1 or Officer B put the vehicle in park and Officer B was able to free himself. Officer A reported the shots fired and requested assistance and an ambulance.

In a digitally recorded statement given to IPRA on 02 August 2010, **Officer A** related that on the date of the incident he and his partner Officer B observed a vehicle sitting adjacent to a parking lot in a known high narcotic area. The driver of the vehicle appeared to be sitting in the vehicle with his head down. Officer B who was the driver, pulled approximately one to tow feet in front of the vehicle.<sup>6</sup> Officer A and Officer B exited their vehicle and approached the driver's side of Subject 1's vehicle. As Officer A approached the vehicle, he was watching Subject 1, trying to observe any suspicious movement Subject 1 may make. Officer B then stood to the left of Officer A, by the out side driver's side mirror. Officer A, who was standing to the right of Officer B by the door handle, asked the driver, now known as Subject 1, if he had business in the lot. Subject 1 kept his head down and informed the officers that he was waiting for someone. Officer A related that the reason why both he and Officer B stood on the driver's side was that he only saw one person inside the vehicle. Officer A observed an undetermined amount of US currency in the cup holder in the middle console. Officer A requested a driver's license from Subject 1. Subject 1 took a deep breath, and then he put the vehicle in drive. The vehicle moved forward once and to the left toward Officer B and Officer A. Officer A was standing a foot from the vehicle as it moved, but Officer B instructed Subject 1 to stop the vehicle and reached inside the vehicle, placing his upper body inside the vehicle and his feet off the ground, in an attempt to place the vehicle in park and simultaneously instructed Subject 1 to stop the vehicle. The vehicle moved forward

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<sup>6</sup> The officer placed his vehicle in a "T" position in front of Subject 1's vehicle.



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striking Officer B on the leg. The vehicle then moved backwards. Officer A did not verbally forewarn Officer B that he was going to discharge his weapon. Officer A fearing for his partner's safety, of possibly being dragged or ran over, Officer A fired his weapon four times in succession striking Subject 1. Officer A stopped firing once the vehicle stopped and the threat was eliminated and Officer B managed to clear the vehicle. Officer A was standing approximately two feet from the vehicle when he discharged his weapon.

**CPD Detective 3**, related to the Roundtable Panel that she responded to Medical Examiner's office and observed several gunshot wounds to Subject 1's body. There were through-and-through wounds to the right and left forearms and to the upper part of the right and left arms. The bullets from the wounds to the upper arms both appeared to enter the chest area.

**Chicago Fire Department EMS records** reflect medical personnel responded to the location and incident. EMT personnel found Subject 1 unresponsive and he sustained several gunshot wounds.

**OEMC** transmissions reflect that a female caller reported hearing gunshots in the area of 75<sup>th</sup> Street and Perry Ave. Bt 622 reports shots fired in the area of 76<sup>th</sup> and State. Bt 622 requests supervisors and an ambulance to the area.

**Evidence Technicians** photographs depict images of the location of incident, the silver Grand AM vehicle associated with Subject 1, the police vehicle associated with Officer A and Officer B.

Additional photographs of Officer B were taken at Christ Hospital and depict images of the injuries Officer B sustained from the incident.

**Surveillance video** obtained from Popeye's Chicken, 111 W 75<sup>th</sup> Street does not depict images of the incident.

**Postmortem report** of Subject 1, completed and submitted by the medical Examiner of Cook County dated 09 July 2010 reflects wound one (1) a gunshot wound to the back. The entrance of the wound is located over the left scapula. The exit of the wound is at the right of the torso. The direction gunshot wound is back to front, left to right and downward.

The second gunshot (2) wound is to the left arm. The direction of the gunshot wound is left to right, back to front and slightly downward.

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The third gunshot (3) wound is to the left wrist. The direction of the gunshot wound is basically from the dorsal aspect of the left wrist to the ventral aspect of the left wrist.

The fourth gunshot (4) wound is to the right forearm. There is a laceration of muscle and possibly tendon. No bones were fractured.

The fifth gunshot (5) wound is to the back. The direction of the gunshot wound is basically back to front horizontal, and with very little left to right and right to left direction.

Anatomic summary reflects lacerations of the skin, subcutaneous tissue, muscle, pleura, lung and aorta. Bilateral hemothorax, external blood loss and fractures to the left humerus, left lunar bone, left scapula, left rib, and thoracic vertebrae.

**Medical Examiner's** photographs depict the body of Subject 1 and images of the wounds sustained.

**General Case report and Supplemental reports** completed and submitted reflect that Officer A and Officer B were conducting street stop in the parking lot at 111 W 75<sup>th</sup> Street. The officers encounter Subject 1 who was sitting a parked a grey Grand Am. The officers approached the vehicle and attempted to conduct a field interview, at that point, Subject 1 attempted to drive away and flee the area. Officer B entered the vehicle through the driver's side window in an attempt to stop Subject 1 from leaving the area, but became lodge in the window. Subject 1 refused to comply with verbal commands from both officers to stop the vehicle. Officer A in fear of his partner's life discharged his weapon at Subject 1 striking him.

A Chicago Police vehicle, unmarked black SUV facing southbound in the parking lot was positioned in front of a grey Pontiac Grand Am which was facing eastbound in parking lot. The Chicago Police vehicle sustained damage at right rear quarter panel adjacent to the wheel well.

Officer A reported that he was working Beat 662A with Officer B. While traveling on 75<sup>th</sup> Street, he observed a vehicle parked in secluded part of the Popeye's parking lot. The officers approached the vehicle to conduct a field interview and asked

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the occupant, Subject 1, sitting in the driver's seat for his driver license. As Subject 1 handed his driver's license to Officer B, he reached for the gearshift located between the driver and the passenger's seat, and placed the vehicle in reverse. Officer B entered the vehicle through the driver's side window and attempted to the driver from fleeing. Officer B was partially in the vehicle and hung on to the steering wheel as he ordered Subject 1 to the stop the vehicle. Subject 1 shifted the vehicle forward striking the officer's vehicle and again shifted the vehicle into reverse. Officer A, in fear of his partner's safety and imminent threat of death from these actions, fired his weapon four times at Subject 1.

Officer B reported that while on patrol he and his partner, Officer A observed a Grand Am backed into a parking space on the west side of the parking lot away from other vehicles. The officers watched the vehicle for sometime and noticed that the driver never exited the vehicle or enter the restaurant.

The officers decided to approach the vehicle and parked in front of the Grand Am. The officers exited their vehicle and approached the driver's side of the Grand Am, which was running at the time. Officer B noticed an unknown amount of loose currency on the center console. Officer B requested Subject 1's driver's license and insurance card. Subject 1 gave Officer B his driver's license and mobile phone. Officer B returned the mobile phone. Subject 1 placed the vehicle in drive and struck the passenger's side of officer's police vehicle.

Subject 1 ignored verbal commands given to him by Officer B to stop the vehicle. The Grand Am pulled forward and Officer B was knocked off balance, but did not fall to the ground. Officer B held onto the vehicle in order to avoid from being run over. Subject 1 put the vehicle in reverse and Officer B was able to position himself to hold on to something inside the vehicle.

Officer B continued to give commands to Subject 1, which was ignored. The vehicle went backwards and then Subject 1 placed the vehicle in drive and the vehicle moved forward. Officer B attempted to remove himself from the window, but he was stuck in between the frame of the door and window. Suddenly, Officer B heard gunshots from his right side.

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The vehicle came to a stop and Officer B did not observed movement from Subject 1. Officer A radioed for assistance and the officers secured the area.

The witness, **Witness 3** related to detectives that she left her residence to retrieve an item from her vehicle which was parked across the street at 7508 S. Perry. She observed a silver vehicle in the parking lot of Popeye's Chicken. As she returned from her vehicle Witness 3 observed a black police vehicle pull up to the silver vehicle and observed one black male and one Hispanic male officer exit the truck.

The officers approached the silver vehicle on the driver's side. The Hispanic officer was at the window and male black officer stood behind him. The window of the silver vehicle was rolled down and she observed the driver of the silver vehicle hand the officers what she believed to be a driver's license. Seconds later, the driver of the silver vehicle put the vehicle into drive, and attempted to go around the police vehicle. The driver put the vehicle in reverse and the Hispanic officer reached into the vehicle and attempted to place the vehicle in park or to remove the keys. The driver of the silver vehicle drove forward with the Hispanic officer handing inside. The Hispanic male officer removed himself from the vehicle and Witness 3 looked away. Suddenly she heard one gunshot. She turned attention back to the vehicle and observed the black male officer fire three additional gunshots into the vehicle.

The witness, **Witness 2** related to detectives that he and a friend Witness 1 were exiting Popeye's Chicken and walking toward Witness 1's vehicle. Witness 2 stated that he was the passenger side of Witness 1's vehicle when he the police yelling, "Cut it off, put it in park, and get out of the car" at an unknown black male sitting in a vehicle. The unknown black male inside the vehicle tried to pull off and the white officer tried to stop him by reaching into the vehicle and putting the vehicle in park. The black male officer stepped back and fired his weapon into the vehicle four or five times.

The witness, **Witness 1** related to detectives that he and his friend Witness 2 were exiting Popeye's Chicken after making a purchase. Witness 1 was standing his vehicle when he noticed a black truck pull in the front of another vehicle. Officers exited the black vehicle and told the driver of the second vehicle to put the vehicle in park. The driver of the vehicle, attempted to place the vehicle in gear. The white officer reached

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into the vehicle on the driver's side and tried to put the vehicle in gear. The male black officer stepped back, and fired into the vehicle.

**Tactical Response Report** submitted and completed by Officer A, reflects that Subject 1's actions towards the officers placed them in fear of acts likely to cause bodily harm. Officer A responded to this by firing (4) times striking and killing Subject 1.

**Crime Screen Processing report** reflects that Forensic Investigator A and Evidence Technician A, Unit 377 recovered and inventoried four (4) expended shell casing, and one (1) fired bullet from the scene.

Forensic Investigator A also recovered Officer A's Smith and Wesson 9 Tactical Handgun Model 5943T; 9MM. Forensic Investigator A also recovered and inventoried from the left pocket of Subject 1 a Pietro Beretta Model 92F; 9MM.

**Illinois State Police (ISP)** test reflects that the weapon associated with Subject 1; a Smith and Wesson 9Mm Beretta was examined and found to be in good firing condition. The weapon displayed rifling characteristics of six lands and grooves with a right hand twist. Technicians test fired the weapon and compared the shots to the IBIS database; however, no identification was made.

**Illinois State Police (ISP)** test reflects that the weapon associated with Officer A; a Smith and Wesson 9MM Luger; semi-automatic was examined and found to be in good firing condition. The weapon displays rifling characteristics of five land and grooves with a right hand twist.

**Civil Suit, # 10 L 8268** filed on 20 July 10 by the Special Administrator A for the Estate of Subject 1, reports that Officer A, acting within the scope of his employment by the City of Chicago utilized unjustifiable force against Subject 1. Officer A shot Subject 1, multiple times with a firearm without lawful cause or justification.

The suit further alleged that Officer B was aware of the imminent use of unjustified deadly force and had a realistic opportunity to intervene and prevent such conduct; however, Officer B deliberately or recklessly failed to act for the protection of Subject 1.

In a deposition taken on 17 November 2011, Officer B during questioning provided essentially the same account of events as told to IPRA and Chicago Police Administration. Officer B also related that once he and Officer A exited their vehicle and

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began to approach the occupied by Subject 1, Officer B observed that the vehicle was on and the driver's side was partially down. As Officer B approached the window, Subject 1 looked at him. Officer B announced his office, displayed his identification and asked Subject 1 for his license. Officer B related that he wanted to conduct a field interview, because he did not know Subject 1's purpose of sitting in the parking lot. Subject 1 gave Officer B his identification card and handed the officer a mobile telephone. Officer B returned the mobile telephone to Subject 1. Subject 1 then tossed the mobile telephone onto the dashboard of the vehicle. Suddenly, Subject 1 took a deep breath, turned the wheel with his left hand and simultaneously placed the vehicle in gear with his right. As Subject 1 began to turn the vehicle to left, Officer B placed his upper body inside the vehicle with intent to place the vehicle back in the park position. However, the vehicle moved forward and to the left, striking Officer B. Officer B related that he where is feet were, but he related that he did not feel the ground under his feet. Officer B related that he was unable to recall if he moved back once the vehicle struck him. Officer B related that he attempted to get himself out of the vehicle, the vehicle continued to move forward and in reverse. Officer B related that as the vehicle moved forward he heard the gunshots.

Officer B related that he had no indication that Officer A had his weapon drawn. Officer A did not announce his intention to fire. Officer B was unable to recall the number of shots he heard. Once the firing stopped and the vehicle stopped moving, Officer B was able to get out of the vehicle.

In a deposition taken on 18 November 2011, Officer A during questioning provided essentially the same account of events as told to IPRA and Chicago Police Administration Officer A also related that the purpose of entering the parking lot of Popeye's Chicken was to conduct a Terry stop. Due to the position of Subject 1's vehicle in the lot, Officer A wanted to ensure that Subject 1 was not observing the establishment for a future robbery. Officer A also wanted to ascertain if Subject 1 was conducting drug transactions in the parking lot.

Officer A also related that at the time of the incident he did not announce his intention to discharge his weapon. When Officer A discharged his weapon, he was attempting to stop Subject 1 from dragging Officer B, who was stuck in the window of the vehicle.

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On 12 August 2010, the case was transferred to the Federal Court under docket# 10 CV05076. On 02 November 2012, the jury returned a verdict in favor of the plaintiff and against the City of Chicago. Compensatory damages were awarded in favor of the plaintiff in the amount of \$4,573,700.00, and punitive damages were awarded against individual defendants Officers A and B in the amount of \$10,000.00 each. As of 10 January 2013, the City of Chicago disputed the judgment.

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**Conclusion:**

This investigation found that the use of deadly force by Officer A was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order 02-08-03, Section II, 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.

The witnesses, Witness 3, Witness 2 and Witness 1 provided inconsistent accounts of the incident to Detectives of Chicago Police Department and Investigators of the Independent Police Review Authority.

Witness 3 first stated to Chicago Police Department and IPRA personnel that she observed Subject 1 place his vehicle in gear and drive the vehicle forward and then backward. Officer B reached inside the vehicle as the vehicle continued to move forward and backward. Witness 3 turned her attention for from the vehicle and heard one gunshot, she then turned her attention back to the Grand AM and observed Officer A discharge his weapon several additional times.



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Witness 3 stated to Chicago Police Department personnel that when she observed the Grand AM moving forward and backward, Officer B's body was somewhat inside the vehicle.

Witness 3 stated to IPRA that as the vehicle driven by Subject 1 moved forward and backward, Officer B stepped back from the vehicle and stood completely outside the vehicle. Officer A stood approximately one foot from the vehicle and discharged his weapon four times at Subject 1.

The witness, Witness 1 stated that he heard Officer B instruct Subject 1 to place his vehicle in gear. Witness 1 stated that at no time did the vehicle driven by Subject 1 move in any direction and the officers were in danger of being struck. Witness 1 stated that after the shooting Officer A got on the radio and requested assistance. Upon the arrival of additional officers, Officer A reported that the vehicle struck him. Department records and statements from the officers indicate the vehicle struck Officer B.

The witness, Witness 2 stated that he observed Subject 1 attempt to maneuver his vehicle around the officer's SUV, but the vehicle did not strike the officer or the police vehicle. Witness 2 and Witness 1 were standing next to each other at the time of incident.

Officer A's action complied with Chicago Police Department policy on the use of deadly force. Officer A followed the guidelines of General Order 03-02-02, II Section B.<sup>7</sup> Officer A and Officer B attempted to conduct a vehicle stop to investigate the actions of Subject 1. Officer B approached the vehicle and requested Subject 1's identification. Subject 1 gave Officer B a state ID card and mobile telephone. Officer B returned the mobile telephone to Subject 1. Subject 1 put the Grand AM in drive and drove forward, turning the wheel as he did which caused the Grand AM to strike Officer B. Officer B reached into the window to stop Subject 1 from driving further. The driver's side window was not fully open and Officer B became struck in the opening. Subject 1 reversed the Grand AM and drove forward again with Officer B still stuck in the window. Officer B unable to remove himself from the vehicle, repeatedly instructed Subject 1 to turn off the vehicle and stop but Subject 1 did not comply. Officer A gave verbal commands to Subject 1 to stop the vehicle, but he refused. In fear for the safety of Officer B possibly

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<sup>7</sup> General Order 03-2-03 Deadly force; Firing into a moving vehicle is only authorized to prevent death or great bodily harm to the sworn member or another person. When confronted with an oncoming vehicle and that vehicle is the only force used against them, sworn members will move out of the vehicle's path.

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being struck a second time by the vehicle, Officer A discharged his weapon at the striking Subject 1.