

INVESTIGATION

NUMBER: U #10-36, Log #1040637

OFFICER

INVOLVED #1: "Officer A" (Chicago Police Officer); Male/White; 37 years old; On-Duty; Uniformed; Year of Appointment – 1996

OFFICER #1

INJURIES: Non-Fatal – Minor Injury (Bruises/Swelling/Minor Abrasions). Taken to Lutheran General Hospital.

OFFICER

INVOLVED #2: "Officer B" (Chicago Police Officer); Male/White; 42 years old; On-Duty; Civilian Dressed; Year of Appointment – 2005

OFFICER #2

INJURIES: Non-Fatal – Minor Injury (Bruises/Swelling/Minor Abrasions) Taken to Our Lady of Resurrection Hospital.

OFFICER

INVOLVED #3: "Officer C" (Chicago Police Officer); Male/White; 32 years old; On-Duty; Civilian Dressed; Year of Appointment – 2002

OFFICER #3

INJURIES: Non-Fatal- Minor Injury (Bruises/Swelling/Minor Abrasions). Taken to Our Lady of Resurrection Hospital.

SUBJECT: "Subject 1"; Male/Hispanic; 24 years old

SUBJECT'S

INJURIES: Graze wound to the face. Taken to Our Lady of Resurrection Hospital for treatment.

INITIAL

INCIDENT: Officers were attempting to arrest an offender for Aggravated Assault to an officer.

DATE/TIME

OF INCIDENT: 13 October 2010, at approximately 2045 hours and 2115 hours.

LOCATION:

3950 N. Marmora Avenue (on the street). Beat 1632. / 6200 W. Berenice Avenue (on the street). Beat 1632.

SUMMARY OF INCIDENT:

On 13 October 2010, at approximately 2128 hours, at 6200 W. Berenice Avenue, officers from Units 016 and 315 attempted to arrest Subject 1 for Aggravated Assault and Aggravated Battery to bicycle officer, Officer D. Officers D and E were stopped at the southwest corner of 4500 N. Broadway Street, attempting to cross eastbound on their bicycles. They had the green light and were proceeding to cross when a vehicle driven by Subject 1, southbound on Broadway, failed to stop at the solid red signal, nearly striking Officer D. Officers D and E rode up to the vehicle and Officer D approached Subject 1 and requested that he curb the vehicle. Officer E approached the passenger, Witness 1. Subject 1 immediately turned off the vehicle's headlights and sped away, traveling southbound onto Sheridan Road. Officers D and E lost sight of the suspect vehicle and gave a flash message. Officer A, monitored the flash message, observed Subject 1 driving in the area of 3900 N. Marmora Avenue and engaged in a vehicle pursuit. During the pursuit, Officer A observed the vehicle driven by Subject 1 reversing eastbound at 6200 W. Berenice Avenue and attempted to curb it. The vehicle changed direction and drove toward Officer A. Fearing for his life, Officer A fired two shots at the vehicle. Subject 1 reversed the vehicle and again drove in the direction of Officer A. Officer A fired six additional shots at the vehicle. Subject 1 drove away, down the sidewalk, with additional units in pursuit. Officer F, monitored the flash message and joined in the pursuit. Subject 1 sideswiped Officer F's vehicle and then crashed into a light pole at 5901 W. Irving Park Road. Subject 1 freed the vehicle from the light pole, continued driving and crashed into a vehicle occupied by Officers B and C. Officer C, in fear of his life, fired several shots at Subject 1. Subject 1 exited the vehicle and the vehicle crashed into a parked vehicle at 3942 N. Marmora Avenue. Subject 1 turned toward the officers while fleeing and pointed a handgun in their direction. Officer B, in fear of his life and the life of his partners, fired numerous shots at Subject 1. A short foot chase ensued and Subject 1 was apprehended. Subject 1 became combative during his apprehension and necessary force was used to affect his arrest. Subject 1 was transported to Our Lady of Resurrection Hospital for treatment of injuries that he sustained during the vehicle chase and a gunshot graze wound to his face. While being treated, Subject 1 freely stated that he had consumed several alcoholic beverages and smoked marijuana immediately before driving.

INVESTIGATION

The **subject, Subject 1**, declined to talk with IPRA personnel.

Medical records from Our Lady of Resurrection Hospital document that Subject 1 informed medical personnel that he was involved in a police chase in which he feared stopping and kept driving. Subject 1 complained of left elbow, knee and head pain and was diagnosed with multiple abrasions and lacerations about his face, wrist and head. Subject 1 also received sutures to a gunshot graze wound to his face.

In a **statement with IPRA, the witness, Witness 1**, identified Subject 1 as her boyfriend. The two were riding in her car together, with Subject 1 as the driver. They were drinking alcoholic beverages. Subject 1 ran a red light in the area of Sheridan & Broadway. A female bicycle patrol officer rode up to Subject 1' side of the vehicle and asked him to pull over. Subject 1 became frightened and sped away. Several squad cars followed them and attempted to curb the vehicle. Subject 1 increased his speed and began to drive "crazy" in that he was driving in and out of traffic, running red lights, driving on the sidewalk, through alleys and hitting speed bumps. The officers repeatedly instructed Subject 1, over the loudspeaker, to pull over. Subject 1 ignored them and continued in his erratic driving behavior. Witness 1 ducked her head down, balled up and then heard several gun shots. The vehicle struck an object and came to a complete stop. Witness 1 raised her head and noticed that Subject 1 had jumped from the vehicle and fled. Witness 1 did not witness the shooting or Subject 1 strike any officer with the vehicle he was driving.

In a **statement with IPRA, the witness, Witness 2**, stated that he and his co-worker, Witness 3, were standing in the alley at 5927 W. Irving Park Road, behind their place of employment, "Giordano's," when they heard sirens, looked down the alley and observed a parked red Audi on Marmora Avenue. He heard approximately eight to twelve gunshots. Witness 2 ran in the direction of the sound of the gunshots and observed several officers emerge from the parking lot of a nearby funeral home and run toward the Audi. A uniformed officer opened the passenger door of the Audi, removed a female subject, handcuffed her and placed her inside a squad car. Witness 2 did not observe Subject 1 or any officer discharge his weapon.

In a **statement with IPRA, the witness, Witness 3**, corroborated the account of Witness 2. He did not observe Subject 1 or any officer discharge his weapon.

In a **statement with IPRA, the witness, Witness 4**, stated that she was working inside a bar located at 5901 W. Irving Park Road when she observed a red vehicle and a marked Department vehicle drive on the sidewalk, in front of the main windows of the bar. The red vehicle drove off the sidewalk and turned

south onto Marmora Street. Additional squad cars arrived. Witness 4 heard gunshots as she moved toward the screen door. When the gunshots stopped, Witness 4 went to the screen door, looked outside and observed that the red vehicle had crashed into a parked Cadillac and that a white/female subject had just been removed from the red vehicle. Witness 4 did not observe Subject 1 or any officer discharge his weapon.

In a **statement with IPRA, the witness, Witness 5**, a retired Chicago Police Detective, stated that he was inside his residence, located at 5904 W. Bryon Street, listening to a police scanner, when he heard of a police chase in the area. Witness 5 exited his residence, proceeded to the intersection of 6200 W. Berenice Avenue and heard approximately five or six gunshots. Witness 5 relocated to the west end of the alley to actually observe the chase. He looked north toward Irving Park Road and observed a collision involving a red vehicle and a marked Department SUV. Both vehicles were pushed onto the sidewalk at Irving Park Road and Marmora Street. The red vehicle continued south on Marmora Street. Witness 5 heard additional gunshots and observed the red vehicle strike a parked vehicle. Witness 5 heard additional gunshots after that and observed the driver of the red vehicle exit the same and run south on Marmora Street, in the direction of Witness 5. Witness 5 observed the driver turn and point his arm back, toward a casually dressed officer who was chasing him. The officer tackled the driver. Additional Department vehicles arrived and blocked Witness 5's view of the incident.

The related **Arrest, Case and Supplementary Reports, RD#HS-563286, CB#17994916**, document an account consistent with the Summary of Incident. Subject 1 was charged with four counts of Aggravated Battery of an Officer/Government Employee, two counts of Aggravated Assault, DUI, and several other traffic violations. The Supplementary Report was CLEARED/CLOSED (Arrest and Prosecution.)

The **Central Booking photos** of Subject 1 depict facial injuries.

The related **Tactical Response Reports (TRRs)** document that Subject 1 did not follow verbal direction, fled, posed an imminent threat of Battery and used the vehicle he was driving to cause death or great bodily harm to the officers. Officers A, B, and C responded with their presence, verbal commands, and firearm discharges. Officer A fired eight times at Subject 1. Officer C fired five times at Subject 1. Officer B fired three times at Subject 1. Officers B and C also used take down/emergency handcuffing and closed hand strike/punch actions against Subject 1. The Watch Commander/OCIC Review of the reports documents that each officer was placed in fear of his life due to an offender who drove his vehicle in their direction and the officers complied with all Department policies regarding the use of force.

The related **Officer's Battery Reports** document that Officers A and B sustained Non-Fatal/Minor Injury (Bruises/Swelling/Minor Abrasions) and that Officer C sustained Non-Fatal/Major Injury (Broken Bones/Serious Lacerations/Internal Injuries) during the incident.

Evidence Technician photos depict the scene and surrounding areas of Melvina & Byron Streets; the north alley on Berenice Avenue at Melvina Street; fired cartridge cases on the grass, sidewalk and street; fired cartridge cases markers on the street at 6200 W. Berenice Avenue; street signs at Broadway Avenue & Sunnyside Avenue; the scene and surrounding area; street signs at Lake Shore Drive and Belmont Avenue; the scene and surrounding area; the entry ramp from Belmont to southbound Lake Shore Drive; the scene and surrounding area at 3958 N. Marmora Street; damaged Department vehicles; the interior and exterior of the damaged vehicle Subject 1 was driving; and overall and close-ups of Officer C which include a bloody wound to his right knee.

Hand drawn maps depict the various scenes and locations of Officers B and C when they fired.

The **Chicago Police Department Event Query** contains information that is consistent with the Summary of Incident.

The **Illinois State Police Crime Lab Report** documents that the weapons of Officers A, B, and C were examined and found to be in firing condition.

The **Report of CPD Sergeant 1**, contains information that is consistent with the Summary of Incident. The report additionally documented that because Officers A, B, and C were given medication for pain at the hospital, they did not undergo blood and/or urine testing.

In a **statement with IPRA, Officer A** provided an account consistent with the Summary of Incident and stated that he and Officer G, were partnered. He did not witness the other weapons discharge surrounding the incident.

In a **statement with IPRA, Officer G** corroborated the account of his partner, Officer A, and stated that he did not witness any other weapons discharge surrounding the incident.

In a **statement with IPRA, Officer F** provided an account that was consistent with the Summary of Incident. Officer F heard shots, saw flashes in the area of Melvina Avenue and Berenice Avenue and pursued Subject 1 as he fled. Officer F never discharged his firearm or took part in taking Subject 1 into custody.

In a **statement with IPRA, Officer B** provided an account that was consistent with the Summary of Incident. He and Officer C were partnered and

their vehicle was struck three times by the vehicle Subject 1 was driving. Subject 1 pointed a gun at Officer B and Officer B repeatedly discharged his weapon in fear of his own life and the life of Officer C. Officer B heard the simulcast over the radio of the shots fired in the area of Melvina Avenue and Berenice Avenue. He did not witness the actual shots fired at that location.

In a **statement with IPRA, Officer C** provided an account that was consistent with the Summary of Incident. Officer C fired at Subject 1 after Subject 1 struck him on the right knee with the vehicle he was driving, in the area of Marmora Street and Irving Park Road. Officer C did not observe any other officer discharge his weapon.

In a **statement with IPRA, CPD Detective 1**, provided an account that was consistent with the Summary of Incident. CPD Detective 1 did not discharge his firearm during the incident.

In a **statement with IPRA, Officer H**, provided an account that was consistent with the Summary of Incident. Officer H observed Officer B discharge his weapon at Subject 1 when Subject 1 pointed a gun at him from inside the vehicle he was driving. Officer H then observed Subject 1 flee the scene and be taken into custody shortly thereafter.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officers A, B, and C was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order No. 02-08-03, Section 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 involved the infliction, threatened infliction, or threatened use of 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 actions of Officers A, B, and C were in accordance with the first condition of the Chicago Police Department's deadly force policy. Officers A, B, and C responded to a flash message of an officer needing assistance after Subject 1 had committed the crime of Aggravated Assault against a bicycle patrol officer. Subject 1 used the vehicle he was driving as a deadly weapon against the officers, pointed a firearm at the officers, fled to avoid arrest and resisted arrest. To prevent death or great bodily harm to themselves and others, Officers A, B, and C fired upon Subject 1, causing Subject 1 to sustain a graze wound to the face. Based upon the totality of the circumstances surrounding the police involved shooting, Officers A, B, and C were justified in using deadly force against Subject 1.