

Independent Police Review Authority

Log # 1041134 - U# 10-038

INVESTIGATION

NUMBER: Log # 1041134 / U #10-38

OFFICER #1

INVOLVED: “Officer A” (Chicago Police Officer); Male/White Hispanic; 31 years old;
On-Duty; Uniformed; Year of Appointment – 2004

WEAPON DISCHARGED

**OFFICER’S
INJURIES:**

None Reported

OFFICER #2

INVOLVED: “Officer B” (Chicago Police Officer); Male/White; 32 years old;
On-Duty; Civilian Dress; Year of Appointment – 2004
(Struck by Offender’s Vehicle)

**OFFICER’S
INJURIES**

None Reported

OFFICER #3

INVOLVED: “Officer C” (Chicago Police Officer); Male/White; 29 years old;
On-Duty; Civilian Dress; Year of Appointment – 2005
(Struck by Offender’s Vehicle)

**OFFICER’S
INJURIES**

None Reported

OFFICER # 4

INVOLVED: “Officer D” (Chicago Police Officer); Male/White Hispanic; 37 years old;
On-Duty; Civilian Dress; Year of Appointment – 2001
On-duty, Victim Officer – Shot by Police.

**OFFICER’S
INJURIES**

Gunshot wound to the thigh - through and through.
Hospitalized – Stroger Hospital in stable/good condition.

SUBJECT:

“Subject 1”; Male/Black; 14 years old

**SUBJECT’S
INJURIES:**

None reported

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**INITIAL
INCIDENT:** Traffic Pursuit / Shots Fired

**DATE/TIME
OF INCIDENT:** 31 October 2010, at 1727 hours

LOCATION: 801 S. Francisco Avenue (street, starting point)
3201 S. Damen Avenue (off ramp I-55 expressway, ending point)

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SUMMARY OF INCIDENT:

On 31 October 2010, at approximately 1727 hours, Officers B and C, were on patrol driving in the vicinity of Polk & Francisco (801 S. Francisco Avenue), when they observed a suspicious vehicle (red van). The van, with its side sliding door open, was driving slowly as it approached a group of pedestrians. Officers B and C were concerned that the group of pedestrians were about to be shot at, or that the van may be shot at. Officers B and C approached the vehicle to conduct an investigatory stop. The driver, now known as Subject 2, began to flee the scene in the vehicle. Officers B and C were struck by the vehicle driven by Subject 2. A vehicle pursuit was initiated and monitored with several assisting units joining the pursuit. The vehicle pursuit ended at 3201 S. Damen Avenue. Subject 2 was given verbal instructions to exit the vehicle and he refused. Subject 2 was removed from the vehicle with an emergency takedown which was administered by Officer E. Subject 2 sustained a small scrape to his right cheek. A passenger in the vehicle, now known as Subject 1, was approached by Officer A. Subject 1 pointed a paint ball rifle at Officer A placing him in fear for his and his partner's life. Officer A discharged his weapon once striking Officer D on the thigh and missing Subject 1. It was later discovered that the rifle was a replica toy/paintball gun.

INVESTIGATION:

The **OEMC transmissions** reveal that on 31 October 2010, at 1727 hours, at 2900 W. Polk Street, Beat 1135 made a street stop and the driver of the vehicle fled the scene and tried to run the officers over. The vehicle, containing three black male occupants, entered I-290 eastbound at California Avenue and then exited at Damen Avenue. The subjects drove northbound on Damen Avenue, and then re-entered I-290. With their emergency lights activated, the officers pursued the subjects and called in a traffic pursuit. The pursuit continued onto the southbound Dan Ryan Expressway and then northbound I-55. The pursuit subsequently ended at 1747 hours at I-55 and Damen Avenue. "Shots fired" was radioed in and it was reported that an officer was shot in the leg and needed an ambulance.

The **Traffic Pursuit Report and Traffic Pursuit Supplemental Report** document essentially the same information as outlined in the OEMC transmissions. Additionally, CPD Sergeant 1 related that he closely monitored the traffic pursuit by Officers B, E, and F. Lt. Doreen Hlavaty agreed with CPD Sergeant 1's decision to continue the pursuit.

The **Tactical Response Reports** completed by Officers A, B, C, E, G, H, and I document that Subject 1 pointed a weapon at Officer A which placed him in fear for his and his partner's lives. Officer A fired one shot at Subject 1. It was later discovered that the weapon was a replica toy/paintball gun.

The **Illinois State Police report** indicates that Officer A's 9mm Smith & Wesson semiautomatic weapon was tested and found to be in good firing condition.

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In an interview with the Independent Police Review Authority, **Subject 3** related that on the date and time in question, he was standing on the corner of Polk and Francisco when a man that he knows from the neighborhood, named [Subject 2's First Name] pulled up in a van. The driver, now known as Subject 2, talked about getting some car rims. Subject 3 got inside the van and sat on the front passenger seat. Meanwhile, another boy from the neighborhood, [Nickname] who is fourteen years old, jumped in the van with a paintball gun in his hand. The police pursued [Nickname] now known as Subject 1. Subject 2 sped away and his van "brushed" one of the officers. The squad car followed them. Subject 2 drove at a high rate of speed onto the Eisenhower Expressway, the street, back onto the Eisenhower Expressway, and then to the Dan Ryan Expressway. There was initially one squad car chasing them and another squad car joined as Subject 2 continued to elude the police. As Subject 2 approached Damen Avenue off of I-55, one of the squad cars bumped the van. The van came to a stop on a curb or speed hump. Several officers rushed toward Subject 3, Subject 2, and Subject 1 with their guns drawn, yelling for them to get their hands up. Subject 3 said he and Subject 2 raised their hands and as he stepped out the van, he heard glass break and one gunshot. The officers took cover and told Subject 3 and Subject 2 to keep their hands up. Subject 3 managed to see an officer open the back door of the van and snatch Subject 1 out. Subject 3 was handcuffed and put on the ground.

Upon further inquiry, Subject 3 said he did not see Subject 1 point the paint ball gun at any of the officers. He also said he did not see whether or not Subject 1 put his hands up when the officers told them to do so because Subject 1 was behind him the entire time. Subject 3 said he did not see who broke the window on the van or who fired the shot. Subject 3 also did not know if anyone was struck by the gunshot.

Subject 3 was not injured during this incident.

The **Arrest Report for Subject 3** indicates that he was taken into custody at 3201 S. Damen Avenue, at 1547 hours for Aggravated Battery of a Police Officer. Further investigation conducted by Area Four Detective Division and the Cook County States Attorney's Office determined that there was insufficient factual information to charge Subject 3. He was subsequently released without charging.

Subject 2 declined to be interviewed by the IPRA at the advice of his attorney.

The **Arrest Report for Subject 2** indicates that he was charged with two counts of Aggravated Battery to a Police Officer, Resisting, Leaving the Scene of an Accident, Failure to Reduce Speed, other traffic violations. The narrative of the report documents that Subject 2 was given verbal direction to exit the vehicle and to keep his hands in view. Subject 2 refused and Officer E administered an emergency take down and performed wristlocks and a hand stun to gain control of Subject 2 who was swinging his arms in attempt to defeat the arrest. Subject 2 sustained a scrape to his right cheek during the incident.

Fourteen-year-old Subject 1 was arrested and charged with Aggravated Battery after he was positively identified as the subject who pointed a paintball rifle at Officer A placing him in fear of receiving a battery.

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In an interview with IPRA, **Witness 1** related that he is employed by Illinois Homeland Security Services and part of his job duties is to assist the police when needed. On the date and time in question, Witness 1 was driving a silver colored Ford Crown Victoria and was entering the I-55 expressway. Witness 1 saw a red van drive past him and a marked Chevy Tahoe police vehicle pursuing the van. The van and police vehicle were driving between 40 and 50 mph. The van struck Witness 1's vehicle and kept going. Witness 1 caught up with the van and would not allow the van to change into the center lane of traffic. Witness 1 bumped the van with his vehicle because he was angry that the van had struck his vehicle. Witness 1 maneuvered his vehicle and struck the rear quarter panel of the van with the front of his vehicle. Witness 1 caused the van to spin around and then continued to push the van with his vehicle into the median, preventing the van from exiting the expressway.

Several police officers ran up the ramp yelling, "Police, show your hands and get out the vehicle!" The driver initially refused to show his hands. One of the officers struck the window of the van with an object, but the window did not break. Witness 1 exited his vehicle and walked up the ramp. Witness 1 heard a shot, but he did not know from where it came. Witness 1 saw an officer walking up the ramp with his gun drawn approaching the van. The gunshot struck this officer and he fell back yelling that he was hit. When Witness 1 approached the van, he saw that there were two more occupants inside. The officers got the subjects out of the van and controlled the situation.

The **Evidence Technician photographs** depict pictures of the scene, Witness 1's vehicle and Subject 2's van, a bullet hole in the side of the van, blood on the ground, one spent round, and the paint ball gun inside the van. There were also photographs taken of Officer D lying in a hospital bed.

In an interview with the IPRA, **CPD Sergeant 1** related that on the date and time in question, he was on a domestic assignment with Beat 1134 when he heard the radio transmission of the vehicle pursuit. CPD Sergeant 1 safely left the domestic incident and radioed that he would monitor the traffic pursuit. CPD Sergeant 1 said he learned that Beat 1135 was the primary vehicle in the pursuit. CPD Sergeant 1 was a good distance behind Beat 1135 and the fleeing van, but he managed to see the emergency lights on the police vehicle as they traveled. Officer B was driving the police vehicle and his partner, Officer C, was giving the traveling direction of the van via radio transmissions. CPD Sergeant 1 stated that Officer C gave clear, calm directions the entire time during the pursuit which last approximately twenty minutes.

CPD Sergeant 1 stated that the pursuit spanned I-290, I-94, and I-55. He said he stated over the radio that if the subject drove into the downtown area, that he would terminate the pursuit. The subject did not drive into downtown, but instead, entered I-55.

CPD Sergeant 1 further related that an unmarked vehicle, which he thought was a tactical car, joined in the pursuit. CPD Sergeant 1 later learned that the driver of this vehicle worked for a security company.

Upon further inquiry, CPD Sergeant 1 said he did not see when Officer A discharged his weapon that struck Officer D.

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In an interview with the IPRA, **Officer C** related that on the date and time in question, he was in uniform, assigned to Beat 1135, on the third watch. Officer C was working with Officer B. Officers B and C were on routine patrol in the vicinity of Polk and Francisco when they saw a red van driving slowly on Francisco Avenue approaching Polk Street with the sliding passenger side door open. There were a lot of people on the street and the officers thought a drive-by shooting was about to happen. Officer B and Officer C exited their vehicle and order the driver to stop the vehicle and show their hands. The driver did not comply and put the vehicle in reverse. The officers continued to give verbal direction, ordering the driver to stop and show his hands. The driver put the vehicle in drive and accelerated in the officers' direction. Officers B and C were in a triangulated position with the van. Officer B used his foot to push off the van once the driver attempted to strike them. As the van pulled off, it struck Officer C's leg. Officer B and Officer C got inside their vehicle, notified OEMC and pursued the van westbound on Polk Street. The officers were informed that CPD Sergeant 1 was monitoring the pursuit.

The vehicle pursuit stretched across three different interstates with an "unmarked vehicle" joining in. The unmarked vehicle was later learned to be the vehicle of a security company. The unmarked vehicle ultimately forced the van to stop at the Damen Avenue ramp off I-55. Officer C approached the driver side of the van with his gun drawn and told the driver, "Show me your hands and turn the vehicle off!" The driver had his hands up and did not move. Officer C said he needed to gain entry into the van, so he intended to use his ASP to gain entry through the driver's window. Officer C then heard a popping sound which he equated to a gunshot. In fear for his life, Officer C ducked down and then saw an officer fall to the ground at the rear of the van. The officer said, "I've been shot!" Officer C saw blood and went to render aid to the officer.

Upon further inquiry, Officer C characterized the vehicle pursuit as controlled and he and his partner were mindful of their speed and traffic conditions the entire time.

In an interview with IPRA, **Officer B** related basically the same account of the incident as Officer C. Additionally, Officer B said he was the driver of the police vehicle and he and Officer C initiated the vehicle pursuit after the driver of the van struck both of them. Officer B said the driver of the van committed an aggravated battery when he struck them and then became a fleeing felon.

Once the pursuit came to a stop, Officer B approached the passenger side of the van with his gun drawn and ordered the passenger out of the vehicle. Moments later, Officer B heard a gunshot and the passenger dropped to the ground and was handcuffed.

Officer B said he did not see any weapons inside the van and he did not know initially who fired the shot.

In an interview at the IPRA, **Officer F** related that on the date and time in question, he was assigned to Beat 1122, on the third watch, in uniform, and driving a marked squad car. Officer F was working with Officer G. Officer F stated that while on routine patrol, he heard over the radio that Beat 1135 was pursuing a vehicle that attempted to run over the officers assigned to that Beat. Officer F said that Beat 1135 was calling over the radio for help and he and Officer G joined in the pursuit on I-290 at Homan Avenue. Officers F and G pursued a red van on I-290 and the Dan Ryan Expressway. While on the Dan Ryan, Officers F and G briefly became the primary unit during the pursuit because Beat 1135 was unable to safely get into the express lanes. A couple of minutes later, Beat 1135 regained the primary role in the pursuit.

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Officers F and G arrived at I-55 and Damen Avenue and saw the red van stopped and facing the wrong direction on the ramp. Officer F then heard over the police radio that shots had been fired. As Officer F exited his vehicle and approached the ramp, he saw a police officer lying on the ground bleeding from the leg. Officer F also saw three subjects handcuffed and being taken into custody.

In an interview at the IPRA, **Officer G** related that he was the passenger officer with Officer F. Officer G related essentially the same account of the incident as Officer F. Additionally, Officer G said that once the pursuit ended, he assisted with placing the driver of the van in custody. Officer G said he and Officer F arrived at the scene after the shot was fired.

In an interview at the IPRA, **Officer A** related that on the date and time in question, he was assigned to Beat 1013, in uniform, working with Officer J. Officers A and J were in the vicinity of 26th & Pulaski Road when they monitored a vehicle pursuit over the radio. The officers drove away in the 010th district continuing to monitor the traffic pursuit in case the lead Unit, Beat 1135, needed assistance. Officer A said he and his partner headed toward I-55 to Damen Avenue when they heard the pursuit was headed in that direction. Upon arrival at Damen Avenue at I-55, Officer A exited his vehicle and walked toward the ramp. He approached a red van, which was stopped on the ramp, facing the wrong direction. Another officer stood a few feet away on the same side of the van where Officer A was. Officer A drew his weapon and opened the sliding passenger door of the van. He saw a youth in the back seat with a black gun in hand pointed at him. Officer A yelled, "Police" and with both hands on his gun, fired his weapon once. Officer A withdrew and took cover. He then noticed that an officer, now known as Officer D, was on the ground bleeding.

Officer A said he did not lose his balance and he used his sights when he discharged his weapon. Officer A explained that he was in fear for his life and that of his fellow officers when he fired the shot. Officer A said he felt that what he did was correct given the circumstances, and that Officer D was accidentally struck by the bullet.

In an interview at the IPRA, **Officer D** related that on the date and time in question, he was assigned to Beat 1031, operating a marked squad, in uniform, and was working with a PPO whose name he was unable to recall. While on routine patrol in the vicinity of 31st and Pulaski, Officer D monitored a chase over the radio from the 011th district and through the 10th and 12th districts. He drove around in the 010th district while listening to the radio transmissions. The fleeing vehicle approached I-55 from the Dan Ryan and headed north on I-55. Officer D heard that the vehicle was headed north on I-55 and was exiting at Damen Avenue. Officer D arrived at 32nd Street and Damen Avenue and saw a red mini-van spinning on the island on the ramp. Officer D exited his squad car and told his partner to take cover at their vehicle. There were numerous officers at the front of the van and the officers involved in the chase had both front doors of the van open. Officer D went around the back of the van to the side and saw a person in the back seat. With his weapon drawn, Officer D repeatedly yelled, "Hands! Hands! Let me see your hands!" Officer D opened the sliding doors to the van, did not see a weapon inside, re-holstered his weapon, leaned inside the van and attempted to grab the person in the back seat, now known as fourteen year-old Subject 1. Officer D heard one gunshot, but did not know from where it came. Officer D, not realizing immediately that he had been shot, hobbled backwards,

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drew his weapon, and backed up. Officer D got on the ground to take cover and then saw blood on his leg. Officer D said he sustained a through and through wound to his mid left thigh.

Officer D was transported to Stroger Hospital for treatment. He said he did not know that a police officer had shot him until after he arrived at the hospital.

Upon further inquiry, Officer D said he did not know Officer A at the time of the incident. Officer D felt that Officer A did not intentionally wound him and that Officer A fired his weapon to protect himself and his fellow officers based on the circumstances.

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CONCLUSION AND FINDING:

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

- A. "A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:
1. to prevent death or great bodily harm to the sworn member or to another person, or;
 2. to prevent an arrest from being defeated by resistance or escape and the sworn member 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 A fired his weapon inadvertently striking Officer D. Officer A's actions were in accordance with the requirements of the Department's Use of Deadly Force policy. Officer A was reasonably in fear for his and the lives of his fellow officers when he discharged his weapon.