

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1043606/U #11-10

INVESTIGATION

NUMBER: Log #1043606/U #11-10

INVOLVED

OFFICERS: #1 “Officer A” (Chicago Police Officer); Male/White; 39 years old;
On- Duty; Uniform; Year of Appointment – 1998

#2 “Officer B” (Chicago Police Officer); Male/White; 35 years old;
On- Duty; Uniform; Year of Appointment – 2005

#3 “Officer C” (Chicago Police Officer); Male/Hispanic; 31 years old;
On- Duty; Plainclothes; Year of Appointment – 2001

OFFICERS’

INJURIES: #1 Gunshot wound to the leg

#2 None Reported

#3 None Reported

SUBJECT: “Subject 1”; Male/Hispanic; 37 years old

SUBJECT’S

INJURIES: Fatal gunshot wound to the head

DATE/TIME: 26 February 2011; 1749 hours

LOCATION: 1500 W. Devon - Beat 2432

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SUMMARY OF INCIDENT:

On 26 February 2011, members of the Gang Intelligence and Narcotics Units were conducting surveillance on Subject 1 and Subject 2, who were suspects in numerous murders. During the surveillance, officers followed Subject 1, Subject 2, and another individual, Subject 3, to several locations, ending at 5841 N. Winthrop. All three subjects went into the building. Officers maintained their surveillance in the area around the building until they observed the three subjects run back to their Ford F150 pickup truck and drive away. Officers continued their surveillance until they monitored a call of a person shot¹ at 5841 N. Winthrop. Believing that the three subjects may have committed another murder, the officers immediately tried to stop the truck. Officer A and Officer J, who were driving a marked vehicle, pulled in front of the truck at 5917 N. Broadway. The subjects immediately fired at the squad car, striking Officer A in the leg. Officer A returned fire. The truck then fled to the vicinity of 6358 N. Greenview/1500 W. Devon, where it crashed. Officers B and C were on the scene and approached the stopped truck. Subject 1 pointed his weapon at the officers. Officers B and C both fired their weapons at Subject 1, striking him. Subject 1 was transported to St. Francis Hospital, where he was pronounced dead.

INVESTIGATION:

¹ It was later learned that three people were stabbed but no one was shot at that location.

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The related **Department reports** provide an account of the incident that is consistent with the Summary of Incident described above. The reports indicate that Subject 3, Subject 2 and Subject 1 robbed and stabbed three victims during a narcotics-related robbery at 5841 N. Winthrop. Two of the victims died on the scene. After Subject 1, Subject 3, and Subject 2 fled the scene, officers tried to stop their vehicle. Subject 1 shot Officer A in an attempt to get away. CPD officers then shot and killed Subject 1 when he pointed his gun at them. Officer A, Officer B, and Officer C submitted Tactical Response Reports (“TRR”) and Battery Reports indicating that they fired their weapons at Subject 1. Officer A’s report indicates that he fired seven shots. Reports from Officers B and C indicate that they each fired one shot. Officer J also submitted a TRR related to Subject 1, but the “Member’s Response” section is empty. His report, like those from the other officers, indicates that Subject 1 used his vehicle and gun against the officers. Officer L submitted a TRR and Battery Report indicating that he discharged his Taser on Subject 3 during his arrest. Subject 3 and Subject 2 were arrested on multiple charges

In a statement to detectives, **Subject 3** provided information about the homicide that preceded the shooting incident. Subject 3 stated that Subject 1 drove the truck away from the scene of the homicide. While they drove, Subject 2 noticed that an unmarked police car was following them. Subject 1 sped away and started shooting a grey pistol through the front windshield at a marked police car as he drove. Subject 3 ducked to the floor. The truck crashed into a utility box. Subject 3 observed that Subject 1 was bleeding from the face. He thought that Subject 1 had been shot. Subject 3 surrendered to the police after the crash. Subject 3 denied that he had a weapon in his possession at any time during this incident. He did not know if Subject 2 fired a weapon at the police.

In a statement to detectives, **Subject 2** related that Subject 1 was driving the truck and noticed that police were behind them with lights on. Subject 1 drove away from the police. Subject 2 heard gunshots and ducked down in the truck. The windows in the truck were being shot out. Subject 1 continued to drive away from the police while the shots were still being fired. Subject 2 did not know if the shots were coming from inside or outside the truck. Subject 1 crashed into another vehicle, causing Subject 2 to duck lower in the truck. Subject 2 stated that he had a black pistol under his seat and that he was the only one in the truck with a gun. When they crashed, the gun slid out from underneath the seat.

In a statement to detectives, Witness 1 stated that he was at a parking meter at approximately 5902 N. Broadway when he heard vehicles traveling at a high rate of speed. He saw a marked police vehicle with emergency equipment activated driving next to a black truck. It appeared to Witness 1 that the officers were trying to stop the truck. Both of the vehicles stopped in the northbound lanes in front of Witness 1 with the police vehicle at a slight angle. Witness 1 heard multiple gunshots coming from both vehicles. Witness 1 ducked behind the parking meter pay box and observed a blue flash coming from the front driver’s side window of the truck. The truck then struck the police vehicle and another vehicle as it fled north, out of Witness 1’s sight.

In a statement to detectives, Witness 2 stated that she was at home when she heard tires screeching. She looked out her bedroom window and saw a CPD Tahoe driving east on Devon with its lights on. She also saw a black pickup truck crash into a utility box at the corner of

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Devon and Greenview. A male exited the driver's side of the truck. Witness 2 heard the police yelling "stop, stop." The male moved. Witness 2 heard two gunshots and saw the male fall to the ground. Police officers then surrounded the truck.

In separate statements to detectives, Officers D and E related that they were in the 024th District parking lot when they heard calls of shots fired. The direction of flight provided by the dispatch was west on Devon from Broadway. Officers D and E went to the location and observed a Ford pickup truck crash into a utility box at the intersection of Devon and Greenview. The officers got out of their car and yelled for the subjects in the truck to show their hands. The officers both heard two gunshots but did not see who fired. They assisted in handcuffing the passengers of the truck.

In separate statements to detectives, Officers F, G, H and I related that they responded to the scene at Devon and Greenview. The officers assisted in handcuffing the subjects. Officer H reported that he heard two shots and saw Officer L deploy his Taser at one of the subjects.

Witness 4 and 5; **Officers A and M**; and Officers B, C, J, K, L and N provided essentially the same account of the incident to the detectives as they provided in their statements to IPRA.

Evidence Technician photographs depict the location of the incident and the recovered evidence.

The **Crime Scene Processing Reports** identify physical evidence that was recovered from the scene and during the investigation of the incident and the robbery/homicide that preceded it. Subject 1's clothing and a fired bullet were inventoried at the medical examiner's office. A fired bullet was recovered from the interior of the driver's side door of the Ford F150. A fired bullet that was removed from Officer A's right thigh was inventoried at St. Francis Hospital. Two firearms were recovered from the Ford pickup truck. Gunshot residue tests were conducted on Subject 1, Subject 2, and Subject 3. Subject 2 and Subject 3's clothing was also inventoried.

Office of Emergency Management and Communications records reveal that two calls were placed to 911 at 1725 hours to report that one male was shot and another was bleeding from the throat at 5841 N. Winthrop. Officers who responded to the scene quickly confirmed that no one was shot at that location but that the knife wounds to the neck were severe. **Officer O, Unit 193** also called 911 at 1734 hours to report that he heard over a tapped phone line that someone shot a police officer in the vicinity of 6355-6399 N. Greenview.

The **Chicago Fire Department's Ambulance Report** documented that on 26 February 2011, paramedics responded to the incident and found the subject, Subject 1, with gunshot wounds to his head and unresponsive.

Subject 3 and **Subject 2** declined to provide statements to IPRA.

In an interview to IPRA on 02 June 2011, **Witness 3** related that she was driving north on

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Broadway when she heard police sirens and a gunshot from behind her. It appeared that police were trying to stop someone in a pickup truck who would not stop for them. Witness 3 pulled over to the right. The truck struck her vehicle and kept going north on Broadway. Police cars followed the truck. Witness 3 did not see who fired the shot because she was driving.

A **canvass** of the location of incident did not produce any additional witnesses or information. Witness 2, a witness to the incident, declined to give a statement to IPRA. Arrestees Subject 2 and Subject 3 declined to provide statements to IPRA about this incident.

A **video recording** from Hamilton's Bar and Grill² shows a pickup truck driving north on Broadway at a high rate of speed, followed by three unmarked squad cars with their emergency equipment activated. The recording did not contain any images of the actual shooting.

A **POD recording** from POD 255, located at 5930 N. Broadway did not depict the shooting incident.

In-car camera recordings from Beats 2011 and 2032 did not capture the shooting incident. An in-car camera recording from Beat 2413 shows the black truck crash into an unknown object at the corner of Greenview and Devon. An unmarked squad car stopped behind the truck. The driver of the unmarked car ran to the driver's side of the truck. Several uniformed officers also ran toward the truck with their weapons drawn. The officers appear to be ducking and seeking cover as they approach the truck. A male subject exited the passenger side of the truck. Several uniformed officers take the male to the ground and escort him out of view of the camera.

The **Medical Examiner's Report of Postmortem Examination** indicates that Assistant Medical Examiner A determined that Subject 1 died of gunshot wounds to the head. A bullet was recovered from his head and turned over to CPD. There was no evidence of close range firing for either of the entry wounds. The Medical Examiner photographs depict Subject 1 and his injuries.

An **ISP Report**³ dated 20 April 2011 stated that the firearms belonging to Officer A and Officers B and C were examined and found to be in firing condition. The report continued that one of the recovered fired casings was fired from Officer C's Smith & Wesson, one of the recovered fired cases was fired from Officer B's Sig Sauer, and five fired cartridge casings and the bullet recovered from Subject 1's head were fired from Officer A's Glock.

In a statement to IPRA on 27 February 2011, **Involved Officer B** stated that on the date of the incident, he was assigned to Beat 2443, in uniform, and at 1700 hours he started his tour of duty. As he was getting his assigned vehicle ready for patrol, he heard a call of a person shot in the 020th District. He then heard additional calls of shots fired at and by the police, followed by a

² Due to technical issues, IPRA was unable to obtain a copy of this video recording. IPRA Investigator A and IPRA Investigator B both viewed the video on Hamilton's system and wrote reports about what they saw.

³ The bullet recovered from the leg of Officer A was not tested at the Illinois State Police Laboratory. -the bullet was turned over to the Illinois State's Attorney's Office.

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call that a police officer had been shot. Officer B left the parking lot to respond to the call. While he was en route, he heard additional details over the radio, including that the people involved in the shooting were driving a Ford pickup truck. Officer B observed the truck strike a utility box and come to a halt on Devon and Greenview.

Officer B got out of his vehicle, drew his weapon and walked toward the truck's passenger side. Officer B saw at least two plainclothes officers approaching the truck from the driver's side. As Officer B approached, he heard a gunshot and saw a muzzle flash coming from the driver's side of the truck. Officer B approached the vehicle to address the threat and saw one of the occupants point a handgun in his direction. Officer B fired one shot. Officer B stated that the rear windows of the truck's extended cab were tinted, but he could see from the silhouettes in the window that the plainclothes officers on the other side of the truck were not in his line of fire. Officer B then directed the passenger to show his hands. The passenger put up his hands and turned toward Officer B. The passenger followed the officers' orders to get out of the vehicle, but he did so much quicker than they expected. One of the other officers deployed his Taser at the passenger. The passenger then fell to the ground and the officers detained him. Officer B went around the truck to the driver's side. He observed a subject seated inside the truck's driver seat. One of the plainclothes officers identified himself to Officer B. The officer had a star on his chest and was holding onto the driver. Officer B saw that the driver had blood on him but Officer B did not see a wound. Officer B holstered his weapon and handcuffed the driver. Officer B later learned that there was a third offender in the truck, but he did not see that person. Additional officers and supervisors arrived on the scene. Officer B reported that he had fired his weapon and did a walkthrough with the supervisors.

In a statement to IPRA on 28 February 2011, **Involved Officer C** stated that on the date of the incident, he was working in plainclothes by himself in a covert vehicle without emergency equipment. He was assigned to a narcotics and homicide investigation in the vicinity of Broadway and Thorndale with another unit. They were conducting surveillance at 5841 N. Winthrop. Officer C was specifically assigned to observe a Ford pickup truck. He was in radio⁴ contact with the Narcotics officers who were inside the building. One of those officers reported that the targets of the investigation, Subject 3, Subject 2, and Subject 1, exited the building. Officer C listened to other officers who reported the suspects' movements from the building to the pickup truck. Officer C observed Subject 1 running to the truck, followed by Subject 2 and Subject 3. Officer C followed the truck as it drove away. As he was driving, Officer C heard Sgt. Rubin Ramirez report over the radio that someone had been shot at 5841 N. Winthrop. Officer C continued to follow the pickup truck. As he was driving, Officer M pulled directly behind the pickup truck and activated his lights and sirens. Officer C heard Officer A on the radio saying that he was approaching the pickup truck. Officer C could see Officer A's vehicle several cars in front of him at an angle to the pickup truck. Officer C heard gunshots and saw flashes coming from the driver's side of the truck toward the squad car in which Officer A was a passenger. Officer C then saw flashes coming from the passenger side of the squad car and saw a gun protruding from the passenger window of the squad car. The truck then struck the squad car and continued driving north. Officer C followed the truck.

⁴ The officers involved in the narcotics investigation communicated with each other via Nextel radios rather than over the Zone.

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The pickup truck turned west on Devon. Officer C saw that one of the tires in the pickup truck had blown out. The truck turned north on Greenview but struck a utility box. Officer C stopped his vehicle and drew his weapon. He approached the truck, repeatedly yelling for the driver to turn off the engine. Officer C approached the driver's side and saw through the open window that Subject 1 was holding a black handgun. Subject 1 looked at Officer C and pointed the gun at him. Officer C fired one shot at Subject 1 through the open driver's side window. Officer C determined that Ibarra sustained an injury and was no longer a threat. Officer C approached the truck with his gun in his hand because he knew that there were three subjects in the truck. He opened the driver's door and removed Subject 1 from the truck. Officer C put the truck in park. He saw that other officers were removing the two passengers from the truck. A uniformed officer came around to the driver's side and handcuffed Subject 1. Officer C told someone to request an ambulance. Officer C stated that the only gunshot he heard at Devon and Greenview was the one that he fired.

In a statement to IPRA on 28 February 2011, **Involved Officer A** related that he was in full uniform with Officer J at the time of the incident. They were assigned to a narcotics and homicide investigation and were assigned to a marked vehicle. The targets of their investigation were Subject 3, Subject 2, and Subject 1. Members of the investigation team observed the subjects park on the 5600 block of North Winthrop. Officer A and Officer J remained in their vehicle a distance away from the subjects so they would not alert them to the presence of the police. Officer A monitored the subjects' movements and learned that they went into a building at 5841 N. Winthrop. He then learned that the subjects ran back to their vehicle and left the area. One of the officers went into the building to see what happened and reported that someone had been shot there. Officer A and Officer J decided that they needed to stop the subjects. They heard Officer M report that he was behind the subjects' truck. They made their way to that location and maneuvered their car in front of the truck. Officer A opened his door to get out of his vehicle. As he did, he heard several shots coming from the truck and felt a pain in his leg. Officer A already had his gun in his hand. He pointed his gun at the pickup truck and fired at the driver's window, where he believed the shots came from. Officer A fired three or four shots while the truck was next to his vehicle. The truck then drove into the squad car. Officer A fired three more shots at the passenger compartment of the truck. He stopped firing when the truck passed him. Officer A reached down and felt a bullet in his leg. He and Officer J both got out of their vehicle and then got back in. Officer J started to pursue the truck but soon realized that their vehicle was disabled because of a flat tire. Officer A told Officer J that he had been shot. Officer J stopped the squad car against the curb and they both got out of the vehicle. Officer J called for an ambulance. Officer A immediately felt nauseous when he stood up and was unsure of exactly what happened. While he was waiting for the ambulance, a marked Tahoe pulled up. Officer A got in the Tahoe and asked the officers to take him to the hospital. At St. Francis Hospital in Evanston, doctors removed a bullet from his right thigh.

In a statement to IPRA on 28 February 2011, **Witness Officer J** related that he was working with Officer A at the time of this incident. They were driving a marked vehicle and their specific assignment was to stop the offenders if the need arose. They had followed the targets of their investigation (Subject 3, Subject 2, and Subject 1) to 5841 N. Winthrop, where several officers observed them enter the building. Officer J heard a report over the Nextel communicator

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that the subjects had left the building. Officer J followed the truck and turned on his emergency equipment. Officer J maneuvered around the truck and stopped at an angle in front of it. Officer A opened the passenger door. As Officer J put his car in park and reached for his door handle, he heard 10-20 shots fired. The shots came from the truck. Officer J ducked down heard more gunshots as the truck struck his vehicle. Officer J looked up and saw three bullet holes in his windshield. He opened his car door and saw the truck driving north on Broadway. Officer A told Officer J that he had been shot in the leg. Officer J started to drive after the truck but pulled to the side when he realized that he had a flat tire. Officer J called for an ambulance for Officer A. Officer J stated that he did not observe Officer A fire his weapon.

In a statement to IPRA on 20 March 2013, **Witness Officer K** related that he was working alone at the time of the incident and assigned to an unmarked vehicle. Officer K and other officers were following Subject 1, Subject 3 and Subject 2 as part of a narcotics and homicide investigation. Subject 1 was driving the other subjects in a black pickup truck. The officers followed them to 5841 N. Winthrop. The subjects were inside that address for a short time and then returned to the truck. Officer K heard a call over the radio that someone had been shot at 5841 N. Winthrop. Knowing that the subjects had been inside that location, the officers decided to stop the subjects. Officer K did not have a view of the subjects' truck at that point. He listened to reports of the truck's movements as he maneuvered through traffic. Officer K saw the truck driving north on Broadway. He saw a marked unit attempt to stop the truck. Officer K heard gunshots. He was approximately one block away from the truck and marked squad car when he heard the shots and was not certain that the shots were coming from that area. The truck then struck the marked squad car and drove away. Officer K stopped to make sure that Officer A, who was in the marked squad car, was okay. Officer K then continued driving after the truck. When Officer K got to the vicinity of Greenview and Devon, he saw that the truck had crashed into the utility box at the corner. Officer K parked his vehicle, exited, and made his way toward the truck, approaching from the rear. When Officer K was approximately 20-30 feet away, he saw the truck's door open and heard at least one gunshot. One of the other officers involved in the narcotics investigation was the one who fired the shot. Officer K could not see any of the occupants of the truck until he reached it and saw that Subject 1 had been shot in the forehead.

In a statement to IPRA on 25 March 2013, **Witness Officer L** related that he was working in uniform and assigned to Beat 2413 with Officer P at the time of this incident. Officer L was outside of the 024th District station and Officer P was inside when he heard the call of an officer needing assistance. Officer L immediately got in his vehicle and drove to the location of the 10-1. Officer P remained at the station. Officer L saw the black truck that had been described in the radio call when he was on Devon. Officer L saw the truck crash into a utility box at the corner. Officer L parked and exited his vehicle. He was approximately 30-40 yards away when he heard at least one gunshot. Officer L did not see who fired the shot. Officer L had a view of one of the passengers inside the truck. He was unable to see into the rear of the extended cab because of the tinted windows. Officer L was unable to see anything on the driver's side of the truck. Officer L reached the truck and saw that the passenger was getting out. The officers told the passenger to get on the ground. The passenger was looking around at the officers. It appeared as if he was going to try to run. The passenger looked directly at Officer L. Officer L, for his safety and that of the other officers, deployed his Taser at the passenger. Officers then arrested the passenger.

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In a statement to IPRA on 02 April 2013, **Witness Officer M** related that he was working as part of the gang/narcotics investigation team that was conducting surveillance on Subject 1, Subject 2, and Subject 3, who were suspected of committing multiple murders. Officer M positioned his unmarked vehicle approximately one block away from 5841 N. Winthrop while the subjects were inside that location. Officer M followed the subjects' truck after they left that location. Officer M was approximately one block behind the truck, but he had a view of it. As he drove, he heard over the radio that a person had been shot at that address. The officers on the team decided to stop the truck at that point. Officer M positioned himself directly behind the truck and attempted to stop it, but it did not stop. Officer A and Officer J positioned their car in front of the truck to stop it. The truck did not come to a complete stop but it slowed to 3-5 miles per hour. One of the subjects immediately fired a gun at Officer A and Officer J's car. Officer A's door was open and he was out of the vehicle. He dropped to one knee. The truck then fled north on Broadway. Officer M continued to follow the truck and tried to stop it. The truck crashed into a utility box at the intersection of Devon and Greenview. Officer M was approximately 20-25 yards away at that point. He saw Officer C on the scene, as well as numerous units from the 024th District. Officer M ran across the street toward the truck. Officer M heard one gunshot as he ran toward the truck. He saw Officer C's hand recoil and believed that Officer C had fired. Officer M was unable to see any of the occupants of the truck at that point. He ran to the driver's side of the truck and saw Officer C with a gun in his hand. Officer M holstered his own weapon and helped Officer C remove Subject 1 from the vehicle and place him on the ground, where someone handcuffed Subject 1. Officer M observed that Subject 1 had been shot in the head.

In a statement to IPRA on 02 April 2013, **Witness Officer N** related that he was working in a covert vehicle as part of the surveillance on Subject 1, Subject 2, and Subject 3. Officer N positioned himself on a nearby side street while the subjects were inside 5841 N. Winthrop. He observed them running across the street when they left that location. Officer N followed the subjects' truck as they drove away. He heard the call on the radio that someone had been shot at that location. Officer N saw Officer M, Officer A, and Officer J attempt to stop the truck. As Officer A was getting out of his car, Officer N heard multiple gunshots. He then saw the truck crash into Officer A and Officer J's car and drove away. Officer M immediately followed the truck. Officer N followed them and saw the truck crash into a utility box at Devon and Greenview. As Officer N approached the passenger's side of the truck, he heard Officer C yell about a gun and a gunshot. Officer N heard a second shot immediately after the first. He did not see who fired either shot. Officer N was able to see the front passenger of the truck, who put his hands out of the window and complied with the officers. Officer N eventually went to the driver's side of the truck and saw that Subject 1 had been shot.

CONCLUSION AND FINDING:

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

The officers' actions met the requirements of the Department's deadly force policy. The involved and witness officers provided consistent accounts of the incident and related that they were conducting surveillance on a group of individuals who were suspected of committing several homicides. During the surveillance, they heard a report that someone had been shot at a location where the subjects had just been. Believing that the subjects were fleeing after committing a forcible felony, the officers tried to stop them for investigation. Subject 1 then fired a gun at the officers, striking Officer A. Officer A fired his weapon at Subject 1 to prevent his own death or further harm. Subject 1 continued to flee after Officer A fired at him. Officers B and C both fired their weapons at Subject 1 when Subject 1 pointed his gun at them. Officers B and C were aware that Subject 1 had already shot at the police. As part of the surveillance team, Officer C also knew that Subject 1 was suspected of numerous homicides and had possibly just shot someone. It was reasonable that the officers feared for their safety when Subject 1 repeatedly pointed a firearm at them and shot at Officer A and Officer J.