

Independent Police Review Authority
Log# 1045673 / U# 11-24

INVESTIGATION

NUMBER: Log# 1045673 / U# 11-24

INVOLVED

OFFICER: “Officer A” (Chicago Police Officer); Male/White; 40 years old;
On-Duty; In Uniform; Year of Appointment – 2006

INVOLVED

**OFFICER’S
INJURIES:** None.

INVOLVED

SUBJECT: “Subject 1”; Female/Black; 29 years old

INVOLVED

**SUBJECT’S
INJURIES:** Two gunshot wounds to the left breast, one gunshot wound to the
right back, non-fatal.

INITIAL

INCIDENT: Armed Robbery.

DATE/TIME: 25 MAY 11, 2230 hours

LOCATION: 10 N. Kilbourn Avenue – gas station
Beat 1113

SUMMARY OF INCIDENT:

On 25 May 2011, a male subject, now known as Subject 2, entered a McDonald's restaurant at 5656 W. Irving Park Road and committed an armed robbery. Subject 2 fled the restaurant and jumped into a getaway car driven by a female now known as Subject 1. On the same date at approximately 2230 hours, Officer A, Officer B, and Officer C, assigned to Beat 4430A, were on routine patrol and monitored an OEMC broadcast of a police pursuit involving a black Lincoln that had been used during the armed robbery of the McDonald's restaurant. The officers learned that the pursued vehicle was traveling eastbound on Madison Street. The officers observed the black Lincoln driving in their direction and then turning into the Citgo Gas Station at 10 N. Kilbourn Avenue using the entrance adjacent to Madison Street. Beat 4430A turned northbound onto Kilbourn Avenue from Madison Street. As the officers approached the gas station, they observed the black Lincoln driving through the area between fueling islands 7/8 and 9/10. Beat 4430A then turned westbound onto an entrance/ exit apron of the gas station that accesses Kilbourn Avenue.

Believing the driver of the Lincoln, Subject 1, was bringing the vehicle to a stop, Officer A exited the squad car. Rather than bringing the vehicle to a stop, Subject 1 accelerated her vehicle in the direction of Officer A, who was positioned to the north of his marked squad car. In fear of his life, Officer A discharged his weapon at Subject 1. Subject 1 continued northbound until stopping the vehicle at 44 N. Kilbourn Avenue. Subject 1 sustained two gunshot wounds to the left breast and one gunshot wound to the right back. Subject 1 was placed into custody and transported by a Chicago Fire Department (CFD) ambulance to Mt. Sinai Hospital.

INVESTIGATION:

The **Arrest Report of Subject 1** documents that she was arrested and charged with Attempted Murder, Armed Robbery with a Firearm, Aggravated Fleeing/ Bodily Injury, and Aggravated Assault to a Government Employee. It is reported that Subject 1 was placed into custody after she drove her vehicle into the path of Officer A, attempting to injure him. In addition to Officers A, B, and C, CPD Sergeant 1, and Officers D, E, F, G, H, I, J, and K, assisted in the arrest.¹

The **Case Supplementary Report** documents that Officers A, B, and C were in uniform and assigned to a three man marked squad car. Officer B was the driver of the vehicle, Officer A was the front passenger, and Officer C was the rear passenger. The officers told detectives that they heard an Office of Emergency Management and Communications (OEMC) broadcast regarding a police pursuit of a Lincoln Town Car that was involved in an armed robbery of a McDonald's restaurant. The officers observed the vehicle driving toward them. As they neared the vehicle, the officers observed the passenger's door of the Lincoln Town car open and a black male subject hanging outside the car while the vehicle was moving.

Officer B then made a U-turn and followed the subject's vehicle from about two blocks behind with lights and sirens activated. As the officers approached Kilbourn Avenue, they observed the subject's vehicle enter the Madison Street entrance to the Citgo Gas Station located at 10 N. Kilbourn Avenue followed by pursuing police personnel. Officer B then turned onto Kilbourn Avenue and pulled the squad car into the Kilbourn Avenue entrance/exit to the Citgo Gas Station while the subject's vehicle slowed and maneuvered between fueling islands 7/8 and 9/10. Believing that the driver, Subject 1, was bringing her vehicle to a stop, Officer A exited the front passenger's side of the squad car, followed by Officer C and Officer B.

Officer A told detectives that after he exited the driver's seat of the police vehicle and moved toward Subject 1's vehicle, he saw that there was only one visible occupant. Officer A then realized that Subject 1 was not bringing the vehicle to a stop, but rather now accelerating in his direction. Officer A yelled, "Police, stop, police;" however, Subject 1 continued driving in Officer A's direction. Believing that Subject 1 was going to run him down and kill or seriously injure him and other officers, Officer A discharged his firearm five times in the direction of Subject 1. Subject 1 continued driving onto Kilbourn Avenue where her vehicle came to a stop. Responding officers ordered Subject 1 to exit the vehicle. Subject 1 exited the vehicle and was taken to the ground by responding officers.

Officer B told detectives that as he prepared to exit the front driver's seat of his squad car, he observed Subject 1 accelerate her vehicle in the direction of Officer A. Officer B then heard about five gunshots. Officer B exited the squad car and saw Subject

¹ Subject 2 jumped out of the vehicle during the course of the incident. See statement of Subject 1, Att. 104.

1's vehicle driving onto Kilbourn Avenue, subsequently rolling to a stop at approximately 44 N. Kilbourn Avenue.

Officer C told detectives that as he exited the rear driver's side of the squad car he heard gunshots. Officer C then observed Subject 1's vehicle pulling onto Kilbourn Avenue and slowing to a stop at 44 N. Kilbourn Avenue. Officer C and additional responding officers ran toward the Lincoln, at which time Subject 1 exited the front driver's side of the vehicle and was taken into custody.

In a statement to IPRA on 05 November 2013, **Officer A** provided details concerning his involvement in this incident in a manner consistent with Department reports, witness statements and the summary contained in this report.

In statements to IPRA, **Officers B, C, D, G, and J** provided information consistent with Department Reports and statements made by Officer A.

In statements to IPRA, **Officers E, F, and H** each stated that they heard gunshots as they pulled up to the scene; however, none of them observed Officer A fire his weapon.

In statements to IPRA, **Officers I, K, and CPD Sergeant 1** each stated that they arrived on scene after the weapon's discharge.

The **Tactical Response Report of Officer A** documents that he discharged his firearm at Subject 1 after she became an assailant and used her vehicle as a weapon.

The **Tactical Response Report of Officer B** documents that he utilized an Open Hand Strike on Subject 1 after she pulled away.

The **Tactical Response Report of Officer C** documents that he performed an Open Hand Strike and executed a Take Down/ Emergency Handcuffing on Subject 1 after she pulled away.

The **Tactical Response Report of Officer G** documents that he executed a Take Down/ Emergency Handcuffing on Subject 1 after she became an active resister and pulled away.

The **Tactical Response Report of Officer D** documents that he executed a Take Down/ Emergency Handcuffing and deployed his Taser on Subject 1 after she pulled away and refused to show her hands.

The **Tactical Response Report of Officer K** documents that he deployed his Taser on Subject 1 after she pulled away and refused to show her hands.

The **Taser Download Reports** document that Officer D deployed his Taser twice and Officer K deployed his Taser three times.

A **Traffic Crash Report** documents that during the police pursuit, Subject 1's Lincoln Town Car struck a motorist. The motorist's vehicle spun out of control and struck a CPD vehicle. The CPD vehicle then struck a wooden fence and a rod iron fence before coming to rest. Subject 1 continued driving her vehicle down the alley of 4400 W. Monroe.²

The **Arrest Report of Subject 2** documents that he was arrested and charged with two counts of Armed Robbery with a Firearm, Aggravated Fleeing/ Bodily Injury, and Unlawful Use of a Weapon by a felon after he and Subject 1 purportedly committed an armed robbery at McDonald's. Officers set up a point of surveillance near Subject 2's residence and placed him in custody on 26 May 2011, at 0300 hours, at 3605 W. Fifth Avenue.

The **OEMC recordings** contain calls to 911 and CPD radio transmissions. Analysis of the calls and transmissions are consistent with Department reports and witness accounts. Additionally, OEMC was immediately notified of the officer's weapon discharge.

The **CFD Ambulance Report** documents that Subject 1 was transported to Mt. Sinai Hospital and received treatment for a Taser and gunshot wounds.

Evidence Technician photographs depict Subject 1, her vehicle, recovered evidence, and various angles of the scene.

Medical records document that Subject 1 was treated for one gunshot wound to her left chest through and through, and one gunshot wound to her right upper back. Medical personnel also removed Taser spikes from Subject 1 and treated her for injuries sustained during a motor vehicle crash. A medical evaluation revealed that Subject 1 has Moyamoya disease.³

On 17 October 2011, a **Trajectory Analysis** was performed on Subject 1's vehicle. The purpose of the analysis was to determine whether there was a violation of the Department's Use of Deadly Force policy relative to firing at or into a moving vehicle. The trajectory rods were placed in the impact locations as allowed. A Leica Scan of the vehicle was conducted after the trajectory rod placement. The measurements of the trajectory rods were taken. The analysis results established no evidence to prove Officer A fired at Subject 1's vehicle after the imminent threat of death or great bodily harm had passed. The analysis results did not establish the specific location of Officer A when he fired and/or if there was a means of escape. While it is important to note that the angle measurements are +/- 7°, none of the analysis results indicate that Officer A fired at the vehicle after it passed.

² The Traffic Pursuit was investigated by the Bureau of Internal Affairs under Log #1045811.

³ Moyamoya disease is "a rare blood vessel (vascular) disorder in which a ring of blood vessels at the base of your brain (the circle of Willis) progressively narrows, causing blood flow to your brain to become blocked." (www.mayoclinic.org)

Video obtained from **Citgo Gas Station** depicts the Lincoln enter the lot of the gas station via its south driveway and cut through the lot. Marked police vehicles enter the gas station lot and follow the Lincoln. As the Lincoln drives across the lot, a marked police vehicle pulls up to the lip of the east entrance. As that police vehicle comes to a stop, the front passenger door opens and an officer exits the vehicle. Due to the graininess of the images, the identity and physical characteristics of the officer who exits the vehicle cannot be determined. Additionally, it cannot be determined if the same officer is holding a gun in his hand.

The Lincoln exits the gas station lot via the east drive way and heads north onto Kilbourn Avenue. The Lincoln then comes to a stop but the view of the camera to that location is obstructed by foliage on the gas station lot. Several squad cars then converge on the Lincoln and gas station lot. Due to where the Lincoln came to a stop, no further portion of the incident is observed.

In-car video obtained from Beat 1195 produced no additional information.

In-car video obtained from Beat 1122 depicts the Lincoln driving through the gas station. Simultaneously, a marked squad car pulls up from Kilbourn Avenue and stops at the mouth of the gas station. The squad car's passenger and driver's side doors open as the Lincoln makes its way out of the gas station and turns onto Kilbourn Avenue. Given the image quality of the video, the position of the in-car camera, and the abrupt sequence of events, Officer A's location in relation to the Lincoln and the actual shooting cannot be seen. The Lincoln comes to a stop on Kilbourn Avenue and Subject 1 is placed into custody.

A **canvass** of the vicinity of the incident identified Citgo Gas Station employees Witness 1 and Witness 2 as witnesses to the shooting. Additionally, a manager at JR Plaza's Hotel stated that room 224, occupied by a guest named "Witness 3," has a view of the Citgo Gas Station.

Citgo Employee Witness 1 related that he heard multiple gunshots and dropped to the floor; however, he did not witness the actual shooting.

Attempts to interview **Witness 3** were unsuccessful.

In an interview with IPRA on 25 January 2012, **Witness 2**, a security officer with TNT Security Company, stated that on the date and time of the incident, he was working security at Citgo Gas Station. Witness 2 was outside smoking a cigarette when he was alerted by the sound of police sirens. Soon after, he saw a Lincoln enter the gas station followed by approximately four squad cars. Witness 2 identified the driver of the Lincoln as a female and noted that she was the sole occupant of the car. As the Lincoln pulled into the gas station from the Madison Street entrance, a squad car pulled around to the Kilbourn Avenue exit.

The Lincoln traveled around an island of gas pumps. As the Lincoln headed toward the Kilbourn Avenue exit, it slowed down for a few seconds and then resumed a normal speed. Simultaneously Witness 2 heard four to five gunshots. Witness 2 ducked and did not see where the bullets hit. The Lincoln maneuvered around the squad car that was partially blocking the exit, and exited onto Kilbourn Avenue. Witness 2 saw the driver of the squad car exit the vehicle, but he did not see the passenger/s exit. The driver of the Lincoln then brought the vehicle to a stop.

Witness 2 stated that the driver exited the Lincoln with her hands up and an officer threw her to the ground. Numerous officers surrounded the driver and yelled at her to stop resisting. Witness 2 stated that he heard the “pop” of a taser gun while the driver was on the ground.

The **Case Supplementary Report** documents that during a canvass, the detectives located one eye witness, **Witness 2**. Witness 2 provided detectives an account of the incident which was consistent with the statement he provided to IPRA. Additionally, Witness 2 stated that when a squad car drove up and partially blocked the Kilbourn Avenue exit, Subject 1 accelerated toward that squad car. It appeared that she was going to strike the squad car but swerved at the last second. Witness 2 stated that he heard four or five gunshots but could not tell who was shooting.

In an interview with IPRA on 14 June 2011, **Subject 1** stated that on the date of this incident she was traveling west on Madison Avenue while being chased by the police. Subject 1 said she fled because she was scared. Her boyfriend, Subject 2, jumped out of the car earlier during the chase. Subject 1 turned into the lot of a Citgo Gas Station. While driving through the gas station, a squad car blocked Subject 1’s path. Subject 1 drove around that vehicle. Subject 1 stated she did not know whether any police officers were standing in front of her vehicle as she exited out to the street. Subject 1 then heard two shots but did not know who fired the shots or at whom they were directed. Once she pulled out of the gas station she realized she had been shot. Subject 1 pulled her vehicle to the side of the street and exited. An officer took her to the ground. Subject 1 stated that she landed on her front torso with her hands under her stomach. Officers tried to pull her arms behind her back but she could not move her arms because she was hampered by the pain. As she rolled onto her right side in an attempt to place her left hand behind her back, she was tasered. Subject 1 then rolled onto her left side to free her right hand and was tasered a second time, and again a third time after she was handcuffed.

The **Case Supplementary Report** documents that Subject 1 told detectives that her boyfriend, Subject 2, asked her to take him to do a “job,” which she knew to be a robbery. Subject 1 agreed. Subject 1 drove Subject 2 to a McDonald’s restaurant and parked on the street. Subject 2 exited the vehicle and returned a few minutes later with a bag. As Subject 1 left the area, a police car followed them with lights and sirens on. Subject 2 told her to keep driving. Subject 2 eventually jumped out of the car while Subject 1 kept driving with the police in pursuit. Subject 1 stated that she tried to turn around in a Citgo Gas Station. She entered the gas station, maneuvered through the

pump islands and past cars, and attempted to exit at Kilbourn Avenue. When she realized the exit was blocked by a squad car, she tried to go around and pass the squad car.

Subject 1 stated that as she drove in the direction of the police car and tried to exit, she observed a police officer standing near the front of the squad car pointing something at her. She then heard gunshots and realized she had been shot. She stopped the car by the alley and the police ordered her out of the vehicle. Officers tackled her to the ground, tasered her and handcuffed her.

The **Case Supplementary Report** documents that detectives observed two apparent bullet holes in the front windshield of Subject 1's vehicle, and an apparent bullet hole in the rear passenger's side center post. The passenger's side rear window was shattered. There were five fired 9 millimeter cartridge cases recovered at the scene. Inspection by the CPD Mobile Crime Lab revealed that Officer A's weapon was five cartridges short of being fully loaded. At the Emergency Room, the Mobile Crime Lab recovered one fired bullet that fell from Subject 1's clothing. Hospital personnel reported that Subject 1 sustained two gunshot wounds to her left chest, one of which exited through her upper back.

A **report from the Illinois State Police Division of Forensic Services** dated 14 July 2011 documents that Officer A's 9 millimeter Glock was test fired and found to be in firing condition. Further testing revealed that five fired cartridge casings, one fired bullet fragment, and two fired bullet jackets were fired from Officer A's weapon.

CONCLUSION AND FINDING:

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

Officer A's actions were in accordance with the conditions of CPD's deadly force policy. All available evidence corroborates statements made by Officer A, in that Officer A fired at Subject 1 after she drove her vehicle toward Officer A, placing Officer A in imminent fear of great bodily harm or death.