

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

INVESTIGATION

NUMBER: Log #1071952/U#11-08

OFFICER

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 44 years old;
On-Duty; Civilian Clothes; Year of Appointment – 1994

OFFICER’S

INJURIES: Large bruise along the side of his shoulder.

WITNESS

OFFICER: “Officer B” (Chicago Police Officer); Male/White; 60 years old;
On-Duty; Civilian Clothes; Year of Appointment – 1973

OFFICER’S

INJURIES: None

SUBJECT: “Subject 1”; Male/Black; 59 years old

SUBJECT’S

INJURIES: One gunshot wound to the stomach; non-fatal.

DATE/TIME: 23 February 2011, 1557 hours

LOCATION: Vicinity of 600 N. Faribanks Ct.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

ALLEGATIONS:

On 10 October 2014 at 1716 hours, the complainant third party, Chief Administrator, Scott Ando, registered this complaint with the Independent Police Review Authority (IPRA) to address the allegations associated under Log #1043529, U# 11-08.

The witness, Witness 1, alleged that on 23 February 2011, at about 1557 hours, in the vicinity of 600 N. Fairbanks Ct., **Officer A, Unit 018**, while on duty:

- 1) Kicked Subject 1 and
- 2) Punched Subject 1.

IPRA Investigator A alleged that on 23 February 2011, at about 1557 hours, in the vicinity of 600 N. Fairbanks Ct., **Officer A, Unit 018**, while on duty:

- 3) Failed to properly search Subject 1 who was in possession of a weapon while in custody and being transported and
- 4) Failed to properly restrain Subject 1 with a seatbelt while inside the police vehicle.

The witness, Witness 1, alleged that on 23 February 2011, at about 1557 hours, in the vicinity of 600 N. Fairbanks Ct., **Officer B, Unit 018**, while on duty:

- 1) Kicked Subject 1 and
- 2) Punched Subject 1.

IPRA Investigator A alleged that on 23 February 2011, at about 1557 hours, in the vicinity of 600 N. Fairbanks Ct., **Officer B, Unit 018**, while on duty:

- 3) Failed to properly search Subject 1 who was in possession of a weapon while in custody and being transported and
- 4) Failed to properly restrain Subject 1 with a seatbelt while inside the police vehicle.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

INVESTIGATION:

The Case and Supplemental Reports under RD# HT-176015, indicated that on 23 February 2011, at about 1624 hours, in the vicinity of 250 E. Ohio St., Subject 1 was arrested and charged with Battery. The supplemental report indicated that the investigation was Clear Closed and that the death of Subject 1 was Justifiable under Homicide Report RD#HT-175951.

The Case and Supplemental Reports under RD#HT-175951 indicated that on 23 February 2011, while on patrol, Officers A and B observed Subject 1 asking for money from approaching vehicles in traffic. Officer B observed Subject 1 confront [Joe Public] as he exited a taxi cab. Officer B then observed Subject 1 block [Joe Public's] path as he walked away.

Officer B approached Subject 1 and requested to see his identification. Officer B then conducted a protective pat-down of Subject 1's outer garments. Officer B described Subject 1's clothing as bulky and he did not feel any hard objects on him. Officer B informed Subject 1 that he was being arrested for panhandling. Subject 1 pushed Officer B and punched him on the head. The officers were able to push Subject 1 against a building and handcuff him. Officer B searched Subject 1 before placing him inside the squad car. Officer B related that Subject 1 became loud and continued to struggle while being placed inside the squad car.

The officers chose to transport Subject 1 to the police station themselves. While en route to the 018th District Station, Officer B observed Subject 1 moving around in the backseat. Officer B looked toward the backseat. Subject 1 was still handcuffed behind his back, but with a gun in his hand. Officer A related that he and Officer B made eye contact, acknowledging that they each saw the gun.

Officers A and B heard gunshots as they jumped out of their squad car which continued moving slowly through the intersection. While exiting the squad car, Officer A heard another gunshot and felt pain to his back. Officer B and Officer A discharged their weapons at their moving squad car which came to a stop against a light pole. Officer B recovered a handgun from the rear of the squad car that was used by Subject 1. Subject 1 was treated by responding paramedics and transported to Northwestern Hospital where he died.

The 1st Tactical Response Report (TRR) completed by Officer A indicated that on 23 February 2011, at approximately 1550 hours, at 250 E. Ohio St., Subject 1 was an assailant who did not follow verbal commands and attacked without a weapon. The report indicated that Officer A's response was member presence, verbal commands, wristlock, take/down emergency handcuffing, and closed hand strike/punch and kicks.

The 2nd Tactical Response Report (TRR) completed by Officer A indicated that on 23 February 2011, at approximately 1557 hours, at 751 N. Wells St., Subject 1

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

was an assailant with a firearm likely to cause death or great bodily harm. The report indicated that Officer A's response was member presence and his firearm.

The 1st Tactical Response Report (TRR) completed by Officer B indicated that on 23 February 2011, at approximately 1550 hours, at 250 E. Ohio St., Subject 1 was an assailant who did not follow verbal commands and attacked without a weapon. The report indicated that Officer B's response was member presence, verbal commands, open-hand strikes, take/down emergency handcuffing and closed hand strike/punch.

The 2nd Tactical Response Report (TRR) completed by Officer B indicated that on 23 February 2011, at approximately 1557 hours, at 751 N. Wells St., Subject 1 was an assailant with a firearm likely to cause death or great bodily harm. The report indicated that Officer B's response was member presence and his firearm.

The Illinois State Police (Division of Forensic Services) received a 32 Smith/Wesson five-shot revolver that was used by Subject 1. Also received were four discharged cartridge cases and one live cartridge that was inventoried under #12250689. The revolver used by Subject 1 was examined, and it was found to be in firing condition.

The CFD Ambulance Report indicated that officers, now known as Officers A and B, and a male, now known as Subject 1, had an exchange of gunfire. The report indicated that Subject 1 was handcuffed and not breathing when the paramedics arrived. Subject 1 had gunshot wounds to his back, chest, and shoulder and had blood on his face. The paramedics treated Subject 1 on the scene and then transported him to Northwestern Memorial Hospital.

A Canvass of the location of incident was conducted and did not produce any witnesses to the shooting.

OEMC POD #2042 located at 200 W. Chicago Avenue revealed a slow-moving unmarked squad car with its front doors open. There are two officers, Officers A and B, that come into camera view. Officer B is on the right side behind the squad car while Officer A is on the left side. Officer A is observed firing his weapon at the rear window of the squad car and Officer B firing his weapon into the rear passenger side window. The driver's side and rear windows of the squad car shatter. The POD camera angle moves towards Wells St., and the squad car stops near a light post. A few seconds later, a marked squad car pulls up and two officers wearing green uniforms exit. Officer A is observed lifting up his shirt and looking at his back. The driver's side passenger door is observed opened and a man, now known as Subject 1, is seen lying on the ground with his feet still in the squad car. An ambulance arrives on the scene and Officer A is observed exiting the rear door of the ambulance. The paramedics place Subject 1 inside the ambulance and leave the scene.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

General Order 02-06, IV, A. (Restraining Arrestees)¹ Sworn members taking persons into custody or accepting custody from other officers will be responsible for conducting a thorough search and ensuring that the persons are appropriately restrained to prevent escape or injury.

General Order 98-10-02, VI, A. (Personal Appearance, Uniform/Citizens, Dress and Equipment)² The wearing of soft body armor, both the front and rear panels, by all sworn members while in the performance of field duties is MANDATORY.

Department Special Order 85-3, III, B, 5. (Vehicles equipped with protective divider)³ An arrestee restrained by handcuffs will be secured by means of the seat belt.

In a statement to IPRA dated 23 February 2011, the witness, Witness 1, related that on 23 February 2011, he was working as the building head doorman when he observed a panhandler, now known as Subject 1, approach one of the building tenants, [Joe Public], and ask him for money. Witness 1 stated that [Joe Public] entered the building and then observed two officers, now known as Officers A and B, approach Subject 1 and search his pockets. Witness 1 observed Subject 1 pull away and punch at the officers as they attempted to handcuff him. Witness 1 stated that one of the officers kicked and punched Subject 1. During the struggle, the officers forced Subject 1 against the building and were able to handcuff him. Witness 1 stated that the officers placed Subject 1 inside an unmarked squad car and drove away.

In a statement to IPRA dated 23 February 2011, the witness, Witness 2, related that on 23 February 2011, he was inside his furniture showroom store when he looked out the window and observed two officers, now known as Officers A and B, shooting at a moving vehicle, now known as an unmarked squad car. Witness 2 heard between four and five gunshots and observed a woman inside another vehicle yelling into a cell phone. Witness 2 observed the squad car strike a light post and observed one of the officers pull out a black male, now known as Subject 1, from the backseat of the squad car.

In a statement to IPRA dated 23 February 2011, the witness, Witness 3, related that on 23 February 2011, she was inside her furniture showroom store when she observed two officers, now known as Officers A and B, behind a moving unmarked squad car. Witness 3 heard about four to five gunshots and observed the squad car drive through the intersection and strike a pole. Witness 3 observed an officer grab a male, now known as Subject 1, and pull him out of the backseat and onto the street. Witness 3 observed an officer, now known as Officer A, lift his shirt up appearing to have sustained an injury.

¹ General Order 02-06, IV, A, is rescind and is now General Order 06-01-02, IV, A.

² General Order 98-10-02, A, is rescind and is now Uniform and Property 04-01-02, VI, A.

³ Department Special Order 85-3, III, B, 5, is rescind and is now Uniform and Property 02-01-08, III, B, 5.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

In a statement to IPRA dated 23 February 2011, the witness, Witness 4, related that on 23 February 2011, he left the Moody Bible School and was walking home when he heard a gunshot. Witness 4 was texting on his cell phone and looked up and heard another gunshot. Witness 4 observed the “gunmen,” now known as Officers A and B, following a vehicle. Witness 4 observed the vehicle, now known as a squad car, drive through the intersection at a slow rate of speed. Witness 4 heard about five to eleven additional gunshots, ran back inside of his school, and informed a safety officer to call “911.” Witness 4 observed other officers arrive on the scene and observed a man, now known as Subject 1, lying on the ground.

In a statement to IPRA dated 23 February 2011, the witness, Witness 5, related that on 23 February 2011, he was having a meeting on the 3rd floor of the Moody Bible Institute when he heard about four to five gunshots. Witness 5 looked out the window and saw an unmarked squad car against a pole with both its front doors open. Witness 5 also observed two officers standing near the squad car. Witness 5 observed one of the officers, now known as Officer B, point his weapon inside the squad car and fire his weapon. Witness 5 observed the officers open the back door and observed a male, now known as Subject 1, lying on the ground with his feet still inside the squad car.

In a statement to IPRA dated 23 February 2011, the witness, Witness 6, related that on 23 February 2011, he was standing on the southwest corner of Chicago Ave. and Wells St. when he heard gunshots. Witness 6 observed an officer, now known as Officer A, walking behind a slow moving unmarked squad car. Witness 6 observed Officer A fire his weapon six to eight times at the squad car. Witness 6 observed the rear window shatter from inside and observed the squad car strike a light pole. Witness 6 then heard three more gunshots come from inside the squad car. Witness 6 observed Officer A holding his back, and he appeared to be injured. Witness 6 observed a black male, now known as Subject 1, removed from the squad car and onto the ground. Witness 6 observed Subject 1 lying on his chest and bleeding.

In a statement to IPRA dated 23 February 2011, the witness, Witness 7, related that on 23 February 2011, he was walking eastbound on Chicago Ave. when he heard gunshots. Witness 7 turned around and observed two males, now known as Officers A and B, firing their weapons at the rear window of a vehicle, now known as an unmarked squad car. Witness 7 heard an additional five to nine gunshots and called 911 to report the shooting.

In a statement to IPRA dated 23 February 2011, the witness, Witness 8, related that on 23 February 2011, he was walking northbound on Wells St. and approaching Chicago Ave., when he observed two officers, now known as Officers A and B, behind a moving vehicle. Witness 8 stated that the vehicle, now known as a squad car, had its rear window shot out from the inside. Witness 8 observed Officers A and B both fire their weapons at the back window of the squad car. Witness 8 then ran westbound on Chicago Ave. and found cover behind a parked vehicle. Witness 8 looked at the

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

intersection and observed many police officers on the scene. Witness 8 observed a black male, now known as Subject 1, lying on the ground appearing to be deceased.

In a statement to IPRA date 24 February 2011, the witness, Witness 9, related that on 23 February 2011, she was standing on the Chicago & Franklin CTA Platform when she heard a gunshot. Witness 9 turned in the direction of the gunshot and observed a slow moving vehicle, now known as an unmarked squad car. Witness 9 stated that the squad car had both its front doors open. Witness 9 observed two males, now known as Officers A and B, firing their weapons at the squad car. Witness 9 stated that a large crowd began to gather which blocked her view from the platform.

In a statement to IPRA dated 24 February 2011, the witness, Witness 10, related that on 23 February 2011, while inside his 2nd floor office, he thought he heard the sound of a car backfiring. Witness 10 then heard rapid gunshots and looked out the window. Witness 10 observed two males, now known as Officers A and B, who appeared to be pushing a vehicle that had struck a light pole. Witness 10 observed a person, now known as Subject 1, lying on the ground. Witness 10 also video taped the scene from his office.

In a statement to IPRA dated 24 February 2011, the witness, Witness 11, related that on 23 February 2011, while inside her office, she heard four to five rapid gunshots. Witness 11 looked out the window and observed an unknown white male with a briefcase taking cover behind a car. Witness 11 looked out another window and observed an unmarked squad car against a pole with its windows shattered. Witness 11 observed a white male, now known as Officer A, with a gun in his right hand. Witness 11 stated that Officer A appeared to be “dazed” and injured. Witness 11 observed Officer A lifting up his shirt while other officers looked at his back. Witness 11 also observed a man, now known as Subject 1, lying on the street with his hands behind his back.

In a statement to IPRA dated 24 February 2011, the witness, Witness 12, related that on 23 February 2011, while in his office, he heard three to five loud bangs. Witness 13 looked out the window and saw a slow moving unmarked squad car come to a stop against the curb. Witness 13 observed a man, now known as Officer B, fire his weapon into the rear driver’s side window. Officer B then opened the back door of the squad car and pulled out a person, now known as Subject 1. Witness 13 observed another male, now known as Officer A, lifting up his jacket. Officer A appeared to be checking himself out for injury. Witness 13 stated that additional squad cars and ambulances arrived on the scene. Witness 13 stated that the paramedics treated Subject 1 and placed him inside the ambulance. Witness 13 used his cell phone to video record the scene which showed an officer standing near the body of Subject 1.

In a statement to IPRA dated 25 February 2011, the witness, Witness 13, related that on 23 February 2011, she and her daughter, Witness 14, and her friend, “[Male First Name]” (no further information) were walking on Chicago Ave. when she heard about ten gunshots. Witness 13 observed a crashed vehicle, now known as an unmarked squad car, against a pole. Witness 13 walked toward the scene and observed a

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

male, now known as Subject 1, lying on the ground, and he appeared to be deceased. Witness 13 began to take photographs and was asked by an unknown officer to move away from the scene. Witness 13 asked the same officer if he was the one that killed Subject 1 and the officer replied, "So what if I did." Witness 13 believed that the shooting was preventable and therefore not justifiable. Although Witness 13 did not witness the shooting, she provided a two-page statement called, "Maltreatment of Citizens by the Chicago Police Department" and photos of the scene that she took with her camera.

In a statement to IPRA dated 25 February 2011, the witness, Witness 14, related that on 23 February 2011, she and her mother, Witness 13, and a friend, now known as "[Male First Name]," were walking toward a store when she heard five to six gunshots. Witness 14 then heard an additional four to five gunshots and walked toward the intersection of Chicago Ave. and Wells St. Witness 14 stated that she observed an unmarked squad car and marked squad car on the scene. Witness 14 and Witness 13 walked toward the scene and observed a male, now known as Subject 1, handcuffed behind his back, and he appeared to be deceased. Witness 14 left the scene to rejoin [Male First Name] and they continued on shopping. Witness 14 stated that Witness 13 remained near the scene for a while before rejoining them at the store. After leaving the store, Witness 14 observed yellow police tape around the area and took three photographs of the scene before leaving.

In a statement to IPRA dated 28 February 2011, the witness, Witness 15, related that on 23 February 2011, while driving through the intersection of Chicago Ave. and Wells St., she heard gunshots coming from behind her. Witness 15 looked back and observed an unmarked squad car moving at a slow rate of speed with both front doors open. Witness 15 observed two males, now known as Officers A and B, following right beside the squad car. Witness 15 observed one of the officers fire his weapon five to six times at the moving squad car. Witness 15 stated that the squad car came to a stop against a curb and observed the back window shattered. Witness 15 then pulled over and called 911 to report the shooting.

In a telephone interview to IPRA dated 24 February 2011, the witness, Witness 16, related that on 23 February 2011, while inside his 3rd floor office, he heard gunshots. Witness 16 looked out the window and observed an unmarked squad car next to a light pole. Witness 16 observed a casually dressed male officer fire his weapon four times toward the backseat of the squad car. The same officer then opened the back door and pulled out a male, now known as Subject 1.

In a statement to IPRA dated 03 March 2011, the witness, Witness 17, related that on 23 February 2011, while driving through the intersection of Chicago Ave. and Wells St., she observed a male, now known as a police officer, walk in front of her vehicle. As Witness 17 drove on, she looked through her rearview mirror and observed the police officer fire his weapon into the rear of a vehicle, now known as an unmarked squad car. Witness 17 heard between five and six gunshots, stopped at the following stop

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

sign, and called 911 to report the shooting. Witness 17 did not witness anything further and later discovered while watching the news that it was a police-involved shooting.

In a statement to IPRA dated 11 March 2011, the witness, CFD Paramedic A, related that on 23 February 2011, he and CFD Paramedic B responded to a call of shots fired. Upon arrival, CFD Paramedic A observed an unmarked squad car against a pole. Paramedic Fox went toward the victim, now known as Subject 1. CFD Paramedic A was approached by a police officer who informed him that an officer, now known as Officer A, had been shot. CFD Paramedic A escorted Officer A inside the ambulance to examine his injury. CFD Paramedic A discovered that Officer A was not bleeding and did not have any penetrating wound. CFD Paramedic A observed a large black and blue mark to the back of Officer A. After treating Officer A, CFD Paramedic A approached Subject 1 who was still handcuffed behind his back and lying on the street. CFD Paramedic A stated that the handcuffs were removed from Subject 1, and he was then placed inside the ambulance. While treating Subject 1, CFD Paramedic A stated that Subject 1 was barely breathing and observed gunshot wounds to his chest and shoulder. CFD Paramedic A stated that they worked on Subject 1 for about 10 to 15 minutes before transporting him to the hospital.

Accused, Officer B, was not presented with any allegations because he retired from the Chicago Police Department on 15 November 2011, as indicated on his Personnel Action Request form.

In the 1st statement with IPRA dated 30 May 2013, the accused, Officer A, did not provide a statement. His counsel, [Attorney A], presented a letter from Officer A's Clinical Psychologist, [Psychologist A]. [Attorney A] read the letter which essentially stated that Officer A was under psychological care and was diagnosed with having Post Traumatic Stress Disorder after being involving in the shooting. The letter also recommended that Officer A not provide a statement due to his vulnerable psychological state.

In the 2nd statement with IPRA dated 10 September 2013, the accused, Officer A, related that on 23 February 2011, he and his partner, Officer B, were assigned to Beat #1806. While on patrol, Officer A observed Subject 1 approaching people and soliciting them for money. Officers A and B approached Subject 1 and attempted to explain to him that he could not panhandle. Subject 1 became verbally abusive and said that he could panhandle because of a Supreme Court ruling that allowed him to panhandle.

While being patted down, Subject 1 became combative and struck Officer B on the side of his head. Officer A responded by punching Subject 1 on his body and either kicked or leg-whipped Subject 1 in order to "weaken his power" and gain control of him. While on the ground, Subject 1 continued to resist and was handcuffed and placed inside the squad car. Officer A denied the allegation that he failed to properly search Subject 1. Officer A stated that it was Officer B who patted down Subject 1 and not him. Officer A also related that Subject 1 was wearing numerous articles of clothing when Officer B

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

patted him down.

Officer A stated that he drove to the 18th District Station and while at a red light, he looked at Officer B who appeared to him as “White as a ghost.” Officer A then looked toward the backseat and saw the barrel of a gun that was being held by Subject 1. Officer A slammed on the brakes and heard the first gunshot. At this same time, Officer A observed Officer B exit their moving squad car. Officer A stated that he had trouble placing the squad car into park. Officer A looked toward the backseat and observed Subject 1 scooting across the backseat and trying to fire his weapon again. During the statement, Officer A’s attorney, [Attorney A], made an objection regarding Officer A having to talk and relive the entire shooting.

After hearing the second gunshot, Officer A felt a burning sensation to his back. Officer A opened the driver’s side door and exited his moving squad car. Officer A took out his weapon and began to fire at the squad car. Officer A did not recall how many times he fired his weapon again.

Officer A stated that a bullet pierced his skin, but did not make entry into his body. Officer A sustained a large bruise along the side of his shoulder. Officer A stated that he was not wearing his body armor at the time of the shooting. Officer A admitted that he failed to comply with the General Order that requires him to wear body armor. Officer A stated that after being released from the hospital, he was issued a spar (#524478) for not wearing his body armor.

Officer A denied the allegation that he failed to properly restrain Subject 1 in a seatbelt. Officer A stated that it was Officer B who placed Subject 1 inside the backseat of the squad car. During the struggle, Officer A stated that Subject 1 attempted to head butt and bite Officer B and for that reason, Subject 1 was not secured by a seatbelt.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

CONCLUSION:

Accused: Officer A

It is recommended that Allegation #1, that Officer A kicked Subject 1, be **EXONERATED**. During a pat-down, Officer A explained to Subject 1 that he could not panhandle and he became verbally abusive. Subject 1 became an active resister and struck Officer B on the side of head. Officer A punched Subject 1 on his body and kicked or leg-whipped Subject 1 in order to “weaken his power” and gain control of him. Officer A also documented the force used against Subject 1 in his Tactical Response Report (TRR). While on the ground, Subject 1 continued to resist, but was eventually placed into custody. The witness, Witness 1, related that he observed Subject 1 pull away and punch at the officers as they were trying to handcuff him.

It is recommended that Allegation #2, that Officer A punched Subject 1, be **EXONERATED**, for the same reasons as indicated in Allegation #1.

It is recommended that Allegation #3, that Officer A failed to properly search Subject 1, while in custody, be **SUSTAINED**. General Order 02-06, IV, A requires an officer taking a person into custody or accepting a person to conduct a thorough search. During the search of Subject 1, Officer A failed to discover that Subject 1 was in possession of a weapon. Officer A denied the allegation and stated that he did not search Subject 1. Officer A related that it was Officer B who searched Subject 1 before placing him inside the squad car. Although Officer A did not conduct the search, both officers were responsible for not discovering the weapon, especially since the proper procedures were not followed in securing Subject 1 in the squad car which made it even easier for Subject 1 to reach for his gun.

It is recommended that Allegation #4, that Officer A failed to properly secure the arrestee, Subject 1, be **SUSTAINED**. Officer A related that it was Officer B who handcuffed and placed Subject 1 inside the squad car. Officer A stated that Subject 1 was not secured with a seat belt because he feared that Subject 1 could cause injury to him. While transporting Subject 1 to the police station, Officer A observed Subject 1 scooting across the backseat with a weapon in his hand. Department Special Order (DSO) 85-3, III, B, 5 requires that an arrestee restrained by handcuffs will be secured by a seat belt. Specifically, the Order states, “If an officer believes that his personal safety would be jeopardized in securing an arrestee with a seat belt, the arrestee will be transported by squadrol.” Officer A did not request a squadrol to transport Subject 1 to the 018th District, as he should have done under the described circumstances.

Accused: Officer B

It is recommended that Allegation #1, that Officer B kicked Subject 1, be **UNFOUNDED**. Officer B retired from the Chicago Police Department before being

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

served this allegation. Officer B's partner at the time of the incident was Officer A. The police reports and Officer A's statement described Subject 1 as being upset after being informed that he could no longer panhandle in the area. During a pat-down, Subject 1 became an active resister and struck Officer B on the side of the head. The witness, Witness 1, related that he observed Subject 1 pull away and punch at the officers as they were trying to handcuff him. Officer A stated that he punched Subject 1 on his body. Officer A also admitted that he kicked or leg-whipped Subject 1 in order to gain control of him. In his TRR, Officer B reported he struck Subject 1 in order to gain control of him; however, no kicks to Subject 1 were reported.

It is recommended that Allegation #2, that Officer B punched Subject 1, be **EXONERATED** for the same reasons as indicated in Allegation #1.

It is recommended that Allegation #3, that Officer B failed to properly search Subject 1, while in custody, be **SUSTAINED**. Officer B retired from the Chicago Police Department before being served this allegation. General Order 02-06, IV, A requires an officer taking a person into custody or accepting a person to conduct a thorough search. During the search, Officer B failed to discover that Subject 1 was in possession of a weapon. Officer A stated that he observed Officer B conduct a pat-down search on Subject 1 before placing him inside squad car. The police reports also indicated that Subject 1 was searched by Officer B.

It is recommended that Allegation #4, that Officer B failed to properly secure an arrestee, Subject 1, be **SUSTAINED**. Officer B retired from the Chicago Police Department before being served this allegation. Officer A's statement and police reports indicated that Officer B handcuffed Subject 1 and placed him inside the squad car. Officer A stated that Subject 1 was not secured in a seat belt because he feared that Subject 1 would cause injury to him. While transporting Subject 1 to the police station, Officer A observed Subject 1 scooting across the backseat and trying to fire his weapon. Department Special Order (DSO) 85-3, III, B, 5 requires that an arrestee restrained by handcuffs will be secured by a seat belt. Specifically the Order states, "If an officer believes that his personal safety would be jeopardized in securing an arrestee with a seat belt, the arrestee will be transported by squadrol." Officer B did not request a squadrol to transport Subject 1 to the 018th District, as he should have done under the described circumstances.

FINDINGS:

ACCUSED #1: Police Officer A, Unit 018

Allegation #1 EXONERATED

Allegation #2 EXONERATED

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1071952/U# 11-08

Allegation #3 **SUSTAINED** – Violation of Rule 6, “Disobedience of an order or directive, whether written or oral,” in that on 23 February 2011, at approximately 1557 hours, at 600 N. Fairbanks Ct., Officer A, Unit 018, while on duty, failed to comply with General Order 02-06, IV, A., by failing to properly search Subject 1 who was in possession of a weapon while in custody and being transported.

Allegation #4 **SUSTAINED** – Violation of Rule 6, “Disobedience of an order or directive, whether written or oral,” in that on 23 February 2011, at approximately 1557 hours, at 600 N. Fairbanks Ct., Officer A, Unit 018, while on duty, failed to comply with Department Special Order 85-3, III, B, 5, by failing to properly secure Subject 1 in a seatbelt while transporting him. If an officer believes that his personal safety would be jeopardized in securing an arrestee with a seat belt, the arrestee will be transported by squadrol.

ACCUSED #2: **Police Officer B, Unit 018**

Allegation #1 **UNFOUNDED**

Allegation #2 **EXONERATED**

Allegation #3 **SUSTAINED** – Violation of Rule 6, “Disobedience of an order or directive, whether written or oral,” in that on 23 February 2011, at approximately 1557 hours, at 600 N. Fairbanks Ct., Officer B, Unit 018, while on duty, failed to comply with General Order 02-06, IV, A., by failing to properly search Subject 1 who was in possession of a weapon while in custody and being transported.

Allegation #4 **SUSTAINED** – Violation of Rule 6, “Disobedience of an order or directive, whether written or oral,” in that on 23 February 2011, at approximately 1557 hours, at 600 N. Fairbanks Ct., Officer B, Unit 018, while on duty, failed to comply with Department Special Order 85-3, III, B, 5 by failing to properly secure Subject 1 in a seatbelt while transporting him. If an officer believes that his personal safety would be jeopardized in securing an arrestee with a seat belt, the arrestee will be transported by squadrol.