

Independent Police Review Authority

INVESTIGATION

NUMBER: U# 06-30

REFERENCE: RD HM-525941 – Aggravated Assault to a Police Officer

OFFICER #1

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 29 years old;
On-Duty; In uniform; Year of Appointment – 1999

**OFFICER’S
INJURIES:** None Reported

OFFICER #2

INVOLVED: “Officer B” (Chicago Police Officer); Male/White; 34 years old;
On-Duty; In uniform; Year of Appointment – 1998
(DID NOT DISCHARGE)

**OFFICER’S
INJURIES:** None Reported

SUBJECT: “Subject 1”; Male/Black; 14 years old

**SUBJECT’S
INJURIES:** One gunshot wound to the lower right abdomen; one gunshot
wound to the left upper thigh; one gunshot wound to the left wrist
(Non - Fatal)

**INITIAL
INCIDENT:** Attempted Armed robbery of an unknown male

**DATE/TIME
OF INCIDENT:** 07 August 2006, at 1731 hours

LOCATION: 424 West Division Street
Beat 1821

SUMMARY OF INCIDENT:

On 07 August 2006, at 1731 hours, Chicago Police Sergeant A, Beat 1820, was driving in the vicinity of 424 West Division Street, Chicago, IL, when he was flagged down by an unknown black male. The unknown black male informed Chicago Police Sergeant A that two black males with guns just attempted to rob him. At that time, the unknown black male provided a physical description of one of the individuals who attempted to rob him (a black male wearing a red shirt and black headband) to Chicago Police Sergeant A. Chicago Police Sergeant A sent a "flash message" via the Office of Emergency Management and Communications (OEMC) of "a person with a gun." The "flash message" also contained a physical description of the individual who was identified to Chicago Police Sergeant A.

As Officer B and Officer A, Beat 1821, drove east on Division Street near Clybourn Avenue, in response to the "flash" message of a man with a gun, they observed a black male subject who matched the description of the offender in the flash message. The officers inquired if the man with a gun was wearing a black headband or "do rag." Chicago Police Sergeant A confirmed the description.

Officer B and Officer A approached the black male, now known as Subject 1, while in their vehicle and attempted to conduct a field interview at the intersection of Division Street and Clybourn Avenue. Subject 1 ignored the officers' orders to stop and show his hands. Subject 1 walked south across Division Street at a fast pace while holding his side and crossing in front of the officers' marked squad car, which had its emergency equipment activated. Officer B and Officer A exited their vehicle and drew their weapons. Officer A yelled three (3) times to Subject 1, "Let me see your hands." As Subject 1 turned to face the officers, he pointed a gun at them. Officer A saw the gun in Subject 1's hand and in fear of his life, fired his weapon four (4) times, striking Subject 1 three (3) times. Officer B and Officer A secured Subject 1's weapon and discovered that it was a BB gun. The officers notified OEMC of the shots fired and requested medical assistance for Subject 1.

INVESTIGATION:

Chicago Police Sergeant A related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Chicago Police Sergeant A related that on 07 August 2006, at approximately 1730 hours, while he was driving eastbound on Division Street near Sedgwick Street, he was flagged down by an unknown black male. The unknown black male reported that two unknown black males had just attempted to rob him using guns. Chicago Police Sergeant A observed a black male wearing a red shirt running northbound with a gun and holding his side. Chicago Police Sergeant A notified OEMC via "flash message" of a "person with a gun" and included a description of the offender. Chicago Police Sergeant A heard Beat 1821 report shots fired and relocated to the scene of the shooting. Chicago Police Sergeant A observed a black male and a gun on the ground.

Witness 1 related to the Roundtable panel, that on 07 August 2006 he and his friend, Subject 1, met in Seward Park and both went to Sammy's restaurant at Orleans and Division Streets to eat. Subject 1 complained to Witness 1 about a bigger boy that had been bothering him. Subject 1 asked Witness 1 to fight the bigger boy and Witness 1 agreed. Witness 1 stated that Subject 1 gave him a pellet gun with an extra clip, extra pellets and an extra CO₂ container. Witness 1 stated that he saw that Subject 1 had a BB gun that looked like a .45 automatic. Witness 1 further described Subject 1's BB gun as chrome and black. Witness 1 and Subject 1 found the black male that Witness 1 was to fight in the vicinity of Division and Sedgwick Streets. Witness 1 related that he never saw the black male that Subject 1 wanted him to fight prior to the date of this incident and he does not know his name. Witness 1 and the unknown black male exchanged punches but Subject 1 was not involved in the fight. The unknown black male backed into the street and flagged down a police car. Witness 1 dropped his pellet gun in the bushes near 343 West Old Town Court, then picked the gun up. Witness 1 related that as more police arrived, he again dropped it in the street. Meanwhile, Witness 1 saw Subject 1 run westbound through a parking lot toward Clybourn Avenue. Subject 1 jumped over a fence surrounding the parking lot. Witness 1, who was standing at Division Street and Sedgwick Street, heard a police officer yell, "Freeze" and saw Subject 1 keep running. Witness 1 then heard shots fired. Witness 1 stated that he did not see any officer shoot.

Witness 2 related to the Roundtable panel, that on 07 August 2006 at approximately 1730 hours, he exited the Starbucks near Division Street and Clybourn Avenue. Witness 2's vehicle was parked in a parking lot approximately 150 feet away from the intersection of Division Street and Clybourn Avenue. Commotion near the intersection caught Witness 2's attention. Witness 2 observed a squad car stopped in the middle of the intersection, and a black male, now known to be Subject 1, was standing in front of the car and two uniformed police. Subject 1 "whipped" around with his hands out. Witness 2 stated that Subject 1's hands were not above his head or in his pockets. Witness 2 heard one of the officers shout the word "gun" in a sentence but Witness 2 could not understand the rest of the sentence. Witness 2 then heard three or four shots and ducked behind another vehicle. When the shooting stopped, Witness 2 ran to the parking lot fence and observed one officer kneeling by Subject 1 on the

street. Witness 2 stated that he heard the officer ask Subject 1, who had been shot, why he (Subject 1) pointed a BB gun at him.

Witness 3 related to the Roundtable panel that on the date and time of this incident, he was driving east on Division Street near Clybourn Avenue and behind a marked squad car. A black male in a red shirt, now known as Subject 1, ran from a fenced parking lot across the street. Subject 1 held his pants while he ran. The squad car activated its emergency equipment. Witness 3 slowed his car and watched the incident in the rearview mirror. Witness 3 heard screaming but could not determine who was screaming or what was screamed because his windows were up. Witness 3 observed Subject 1 near the front of the squad car as the two male officers exited the squad car. The officers stood near their doors and yelled at Subject 1. Witness 3 could not hear what the officers yelled. Witness 3 then heard gunshots and saw Subject 1 and a gun fall to the ground. Witness 3 estimated that his car was approximately ten (10) feet away from the shooting.

Detective A related to the Roundtable panel that he responded to Children's Memorial Hospital where Subject 1 received treatment for his injuries. Detective A stated that Subject 1 suffered gunshot wounds to the lower left abdomen, upper right thigh, and a graze wound to the left wrist. Detective A stated that the bullets from the abdomen and thigh wounds were lodged in Subject 1's body. Detective A stated that a red, short sleeve, polo-style shirt and a canister of BBs with a CO₂ cartridge (the type used in BB guns) were in Subject 1's possession.

Officer B related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. On 07 August 2006, Officer B and Officer A were assigned to Beat 1821. Officer B, who identified himself as the driver officer, related that he was driving a marked squad car east on Division Street, when the officers received a "flash message" of a "person with a gun." The message identified the "person with a gun" as a black male wearing a red shirt. Officer B and Officer A observed a black male, now known to be Subject 1, who matched the description contained in the "flash message." Officer B observed Subject 1 holding his right side as he walked across the street. Officer B inquired to the OEMC dispatcher if the person with a gun had a black "do-rag" and received an affirmative answer to his query. Officer B and Officer A yelled for Subject 1 to stop and put his hands up. Subject 1 turned around and produced a handgun from his right pocket. Officer A ordered Subject 1 to drop the gun and get on the ground. Subject 1 did not comply with Officer A's verbal commands. Officer B acknowledged that Officer A discharged his weapon three to four (3-4) times. Officer B indicated that Subject 1, who was facing west, pointed the handgun at Officer A when Officer A fired.

Officer A related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. On 07 August 2006, Officer B and Officer A were assigned to Beat 1821. Officer A rode in the front passenger seat while Officer B drove their assigned squad car. The officers received a "flash message" of a "person with a gun." The message described the person with a gun as a black male wearing a

red short sleeve shirt. The officers observed a black male subject wearing a red shirt, now known as Subject 1, standing near a corner. Officer B inquired if the subject of the "person with a gun" call was wearing a black "do rag" and Beat 1820 answered, "yes." Officer B pulled up near Subject 1. Subject 1 held his side as he walked southbound across Division Street toward Seward Park. The officers exited their vehicle, drew their weapons and ordered Subject 1 to stop and show his hands. Subject 1 turned around, pulled a handgun from his pocket and pointed it at Officer A. Officer A, fearing for his life and safety, discharged his weapon approximately four times. Officer A notified OEMC of shots fired and requested EMS for Subject 1. Officer A observed a shiny steel semiautomatic pistol under the squad car. (Att. 2).

The related **Department Reports**, including the report of Assistant Deputy Superintendent, Office of the First Deputy Superintendent, Aggravated Assault to a Police Officer Report HM-525941, related Case reports, Tactical Response Report, Subject 1's Arrest Report, Original Case Incident Report and Detective Case Supplementary Report provide accounts of the incident that are consistent with the Summary of Incident. Officer A fired his weapon four times, after Subject 1 not only refused to drop his weapon when so ordered, but then pointed his weapon at officers. The Case Supplementary Report identifies Witness 5, Witness 6, Witness 1, Witness 3, Witness 4, Witness 13, Witness 12, Witness 11, Witness 7, Witness 8, Witness 10 and Witness 9 as witnesses to the incident, who were interviewed by the detectives. Their respective interviews are as follows.

Witness 3 related to the detectives that on the date and time of this incident, he was driving his vehicle westbound on Division at Orleans Street when he observed a black male subject, now known to be Witness 1, stop a squad car, which was being driven by a male white sergeant, now known to be Chicago Police Sergeant A. Witness 3 heard Witness 1 tell Chicago Police Sergeant A about a robbery as he pointed westbound on Division Street. Witness 3 heard Chicago Police Sergeant A say something on the radio and observed him make a u-turn onto Division Street. Witness 3 observed Chicago Police Sergeant A pull into the Dominick's lot. Witness 3 observed Witness 1 run northbound on Sedgwick Street from Division Street. Witness 3 pulled his vehicle into the Dominick's lot. Witness 3 observed a black male subject, now known to be Subject 1 lying on Division Street, next to the front of the police vehicle, and a handgun lying in the middle of the street almost underneath the vehicle. Witness 3 related that a large and unruly crowd began to gather. Witness 3 opted to shop at another location and left the scene.

Witness 4 related an account to the detectives which was consistent to the account provided by her husband, Witness 3.

Witness 5 related to the detectives that on the date and time of this incident, he was inside the living room of his apartment when he heard four gunshots. Witness 5's live-in girlfriend, Witness 6, was not in the residence at the time of the incident as she had gone out to walk the dog. Witness 5 walked to the balcony, which faces south and observed a person lying in the middle of Division Street, (south of Seward Park) with

police cars around him. Witness 5 observed a black male subject, now known to be Witness 1 walking east on Division Street from Sedgwick Street.¹ Witness 1 would run a few steps then stop and begin walking as he kept looking behind him and appeared to be nervous. Witness 5 observed Witness 1 remove a large silver/dark colored handgun, possibly a .45 caliber automatic from the right side of his body. Witness 1 initially placed the handgun into a grassy area near a pillar located on the south side of his building complex next to Division Street but then retrieved the handgun and placed it into his pocket on the right side of his body. Witness 1 then tossed the gun under a car and ran southwest across Division Street to Seward Park. Witness 6 returned home and joined Witness 5 on the balcony. Witness 6 asked Witness 5 if he heard the gunshots. Witness 5 informed Witness 6 that he did. Witness 5 then told Witness 6 that Witness 1, who was running across Division Street toward Seward Park, tossed the gun under a car and pointed out the gun under the car to her. Witness 5 and Witness 6 observed several officers in the area of Division Street and Sedgwick Street and informed them what they observed.

Witness 6 related to the detectives that on the date and time of this incident, she left her apartment to walk her dog. Witness 6 heard people yelling and observed two (2) black male teenagers wearing white shirts, fighting on the street near Division Street and Sedgwick Street. A passing car pulled up and told the teens to knock it off. The teens separated from each other. A few minutes later Witness 6 heard four (4) shots. Witness 6 returned home and observed her boyfriend, Witness 5, on their balcony which faces south over looking Division Street and Seward Park. Witness 5 pointed at a black male teenager, now known to be Witness 1, down on the street and told Witness 6 that he (Witness 1) tried to hide a gun in the bushes.² Witness 6 then observed Witness 1 drop the gun in the middle of Division Street and continue westbound to Seward Park. Witness 6 alerted the police in the area, who secured the scene and gun. Witness 6 described the gun she observed as silver and that it appeared that the clip was out.

Witness 7 related to the detectives that he told a news reporter that he observed the police chasing a black male subject with a gun in his hand into the intersection of Division Street and Clybourn Avenue. Witness 7 heard the police yell "drop your gun" to the black male subject who was still holding the gun in his hand. Witness 7 related that he observed the black male subject get shot by the police. Witness 7 felt that the police did not have to shoot the black male subject as he (the black male subject) was going to drop the gun. Witness 7 related that he told a detective on the scene what he observed. The detectives asked Witness 7 if he would be willing to go to Area Three to continue his interview and Witness 7 agreed. While en route to Area Three, Witness 7 told the detectives that he was hungry and the detectives bought him a cheeseburger, fries and

¹ Witness 5 described Witness 1 as a black male, approximately fourteen to sixteen (14-16) years of age, thin build, medium complexion, with either a shaved head or closely cropped hair, wearing a white tee-shirt with a reddish/bluish painted design, and dark colored baggy shorts.

² Witness 6 described Witness 1 as a black male, fourteen to sixteen (14-16) years old wearing a white shirt with blue writing on the front and blue shorts.

an orange soda from Wendy's. When Witness 7 was finished eating the interview reconvened.

Witness 7 was walking towards Seward Park, when he heard someone state "Police, drop the gun," three (3) times. Witness 7 then heard several gun shots, which at first he believed to be fireworks. Witness 7 hid behind the clock tower near Division Street and when he looked around he observed a black male, now known to be Subject 1 lying in the street with a handgun lying next to him. Witness 7 related that when more police arrived on scene, one of the officers approached the location where he was standing with a group and asked if anyone observed what occurred. Witness 7 did not say anything and did not speak to any officer(s) regarding what he observed.

When the detectives asked Witness 7 why his account conflicted with the account he previously provided, Witness 7 related that the account he provided to the media was what he observed and overheard from other people but that he made it sound as if he witnessed the entire thing. Witness 7 went on to inform the detectives that prior to providing his account to the media, he asked to be paid for the interview and thought he might be able to make some money if the interview was good. Witness 7 related that the account that he provided at Area Three was factual. Witness 7 reiterated that he only heard three (3) shots and did not see the shooting.

Witness 8 related to the detectives that on the date of this incident he was riding his bicycle eastbound through the Dominick's parking lot when he observed a black male subject wearing a red shirt, now known to be Subject 1, running from Sedgwick Street through the parking lot towards Division Street. The way Subject 1 was running led him to believe that Subject 1 may have just stolen something and he (Witness 8) considered running to stop him (Subject 1). Witness 8 was approximately eight to ten (8-10) feet from Subject 1 as he ran past him. Subject 1 repeatedly looked over his shoulder as he continued running eastbound. Witness 8 heard gunfire and observed Subject 1 to have a gun in his hand, but was not sure if the subject was raising or lowering the gun. Witness 8 saw Subject 1 fall to the ground on his side, still holding the gun. Witness 8 was unsure of the number of shots he heard, but believed it was three (3) or four (4). Witness 8 did not see the police until he looked over his shoulder and heard gun shots. Witness 8 did not hear anyone say or shout anything because of the traffic and street noises.

Witness 9 related to the detectives that on the date and time of this incident, he was driving eastbound on Division Street with a police vehicle in front of him. The police vehicle turned left onto Clybourn Avenue. Witness 3 observed a black male teenager in a red shirt running on Division Street. Witness 3 heard the passenger officer yelling something. The police vehicle then turned right back to Division Street and went in the direction of Subject 1, who was running. According to Witness 3, it appeared as if the police vehicle was going to hit Subject 1. The police vehicle slowed down as it closed in on Subject 1. Subject 1 put his hand out and appeared to place them on the hood of the police vehicle. The officers exited their vehicle as they unholstered their weapons. Subject 1 was facing the officers, when one of the officers fired

his weapon. Witness 3 heard three (3) shots in quick succession. Subject 1 fell to the ground and an object fell to the ground as well. The officers re-holstered their weapons and secured Subject 1. Other police vehicles and CFD vehicles arrived on the scene. Witness 3 parked his vehicle in the Dominick's parking lot and walked over to the police vehicle which was involved in the incident. Witness 3 related that the object he observed Subject 1 drop to be a black gun. Witness 3 related that a large crowd gathered and shouted at the police. Witness 3 related that he observed most of the incident from his rear view mirror.

Witness 10 related to the detectives that on the date and time of this incident, he was a customer in the Blockbuster Video store with Witness 11. Subject 10 looked out the window and observed a black male subject, now known to be Subject 1, run across the lot. Subject 10 then heard a "couple of shots" and observed Subject 1 lying on the street.

Witness 11 related to the detectives that on the date and time of this incident, she was a customer in the Blockbuster Video store with Witness 10. Subject 11 heard shots and observed a subject, now known to be Subject 1 on the ground.

Witness 1 related to the detectives that on the date of this incident he was parked in the Dominick's parking lot when he heard an officer yell loudly about a gun. Witness 2 turned to see two (2) officers standing outside a police car and a black male subject, now known to be Subject 1 holding his hand to his side as he walked southbound. Witness 2 observed Subject 1 turn at the waist to face the officers. Witness 2 heard three to four (3-4) shots and walked toward the street, where he observed an officer kneeling over Subject 1, who was lying in the street. Witness 2 heard the officer ask Subject 1 "Why did you make me shoot you, you pointed a BB gun at me."

Witness 12 related to the detectives that on the date and time of this incident, she was driving eastbound on Division Street near Orleans Street with her godmother, Witness 15. Witness 12 heard three (3) or four (4) shots and heard an impact at the rear of her car. Witness 12 drove to 950 North Michigan and upon inspection of her vehicle she observed a hole in the rear hatchback. A closer inspection revealed a pellet on the rear floor of her auto. Witness 12 called the police and was escorted to the scene of the incident where the pellet was recovered.

Witness 13 related to the detectives that on the date and time of this incident, he was driving eastbound on Division Street, two (2) cars behind a marked squad car. As traffic proceeded east, Witness 13 observed the squad car veer towards the north side of Division Street. The signal changed and Witness 13's vehicle was now next to the squad car. Witness 13 heard the officers yelling for a black male youth, now identified as Subject 1 to "stop" and "put your hands up." Witness 13 put his hands up because he thought the officers might have been talking to him. Subject 1 continued walking and made a motion towards his side while turning his body at the waist. Witness 13 felt Subject 1 was "going to pull a gun," and ducked down in his seat. Witness 13 then

heard four (4) shots. Witness 13 looked up and observed Subject 1 fall to the ground. Witness 13 continued driving until he got to the light at Sedgwick Street, where he saw Subject 1 being placed in handcuffs (from his rear view mirror). Witness 13 related that the officers repeatedly told Subject 1 to stop but Subject 1 did not comply. (Atts. 4, 5, 6, 7, 8, 34, 37, 38, 39, 41, 42).

The **Chicago Fire Department (CFD) Ambulance Record** indicates that EMTs found Subject 1 lying in the street, at the intersection of West Division Street and North Clybourn Avenue, with multiple gunshot wounds. Subject 1 was transported to Children's Memorial Hospital. (Att.18).

The **Hospital Medical Reports** of Subject 1 indicate that Subject 1 was admitted to Children's Memorial Hospital on 07 August 2006, and 14 November 2006, respectively for treatment of injuries sustained as a result of this incident.³ On 07 August 2006, Subject 1 was transported to Children's Memorial Hospital via CFD Ambulance on 07 August 2006. Subject 1 was diagnosed with three (3) gun shot wounds (abdomen, left arm, left leg). During the course of his admission, Subject 1 underwent six (6) surgical procedures to remedy injuries he sustained as a result of this incident. Subject 1 was discharged on 26 August 2006 and instructed to follow up with his treating physicians. (Atts. 59, 60, 61).

The **Office of Emergency Management and Communications (OEMC)** Recording(s) of relevant transmissions made by both citizens and Department Personnel and related Event Queries provide information consistent with the Summary of Incident including the reporting of shots fired by the police and ambulance request. (Atts.11,11A-11Q, 25, 25A).

The **Major Crime Scene Report, the Crime Scene Processing Report, Evidence Technician Photographs and Videotape** depict the location of the incident and recovered evidence. PO Officer A's weapon, a 9MM Sig Sauer, model P226, was inventoried under #10798461. Subject 1's weapon, a Daisy Powerline, model 93, Co₂ cartridge powered, was inventoried under #10798533. The weapon recovered at 354 West Division Street, dropped by Witness 1, a Crosman, repeater model, cal .177, was inventoried under #10798536. (Atts. 9,12,12A-12Z,12AA,12BB,43,44).

A report from the **Illinois State Police, Division of Forensic Services** dated 9 August 2006, indicated that no latent impressions suitable for comparison were obtained from Exhibit 10 (Crosman Air gun/Witness 1) and Exhibit 11 (Daisy Model 93 Air gun/Subject 1), inventory #10798536 and #10798533. (Att. 40).

³ Subject 1's outpatient records were also obtained. (Att. 61).

A report from the **Illinois State Police, Division of Forensic Services** dated 16 August 2006, indicated that Officer A's weapon was examined, test fired, and found to be in firing condition. (Att. 28).

A report from the **Illinois State Police, Division of Forensic Services** dated 31 August 2006, indicated that the weapon Witness 1 dropped a Crosman air gun, model 1008, appeared to be functioning properly but was not test fired. Additionally, Subject 1's weapon, a Daisy Model 93 appeared to be functioning properly but was not test fired. (Att. 32).

A report from the **Illinois State Police, Division of Forensic Services** dated 22 May 2007, indicated that swabs, from the Crosman air gun, inventory number 10798542 and swabs from the Daisy BB gun, inventory number 10798539, were preserved. (Att. 35).

The **Independent Police Review Authority (IPRA)**⁴ reports that:

A canvass conducted in the vicinity of 424 West Division Street did not identify additional witnesses. (Atts.10,10A).

Attempts to interview **Victim/Subject Subject 1** relative to this incident were unsuccessful. Subject 1's criminal attorney, Attorney A informed IPRA that his client would not be providing a statement to IPRA. (Atts. 30, 30A).

Attempts to interview **Witness 1** relative to this incident were met with negative results. (Atts. 24, 33).

In a statement with IPRA, on 09 August 2006, **Witness 3** provided an account of the incident consistent with the Summary of Incident and related Department reports. While Witness 3 advised the Roundtable panel that he saw a gun fall when Subject 1 was shot, Witness 3's statement to IPRA indicates that an unknown object fell from the youth (Subject 1) at the same time he was shot. Furthermore, Witness 3 stated that he saw an officer point his weapon and fire four (4) shots at the black male. (Att.17).

In a statement with IPRA, on 10 August 2006, **Witness 14** stated that he was driving west on Division Street near Sedgwick Street when he observed a black male wearing a white tee-shirt with airbrush writing and blue basketball shorts.⁵ The black male dropped a black gun to the ground that he obtained from his shorts waistband and continued walking. Witness 14 called "911." Witness 14 then left the area. He did not hear any gunshots. (Atts. 21, 21A).

⁴ In November 2007, the Office of Professional Standards (OPS) became the Independent Police Review Authority (IPRA). Hereinafter any and all references to the Office of Professional Standards (OPS) will be identified as Independent Police Review Authority (IPRA).

⁵ Witness 14 was identified as the OEMC caller in Event 0621916116. (Att. 11B).

In a statement with IPRA, on 14 August 2006, **Witness 12** stated that she was driving her vehicle in the vicinity of Division and Sedgwick Streets on the date and time of the incident with a passenger Witness 15.⁶ Witness 12 heard four (4) gunshots followed by what sounded like an object striking the rear of her car. Witness 12 did not witness the shooting. Witness 12 then dropped off a passenger and saw a bullet hole in her rear hatch door. Witness 12 called "911." (Atts. 26, 26A, 26B).

In a statement with IPRA on 14 August 2006, **Witness 15** stated that she was a passenger in a vehicle being driven by her goddaughter, Witness 12, in the vicinity of Division and Sedgwick Streets on the date and time of the incident.⁷ In the vicinity of Division Street and Clybourn Avenue, Witness 15 heard a siren, immediately followed by four loud bangs that sounded like gunshots. Witness 15 was afraid so she just looked straight ahead out the front window. When she and Witness 12 exited the vehicle she observed a small bullet hole on the outside of Witness 12's trunk. Witness 15 did not witness the shooting. (Atts. 27, 27A).

In a statement with IPRA on 12 May 2009, **Witness 8** stated that on the date and time of the incident, Witness 8 was riding his bike through the Dominick's parking lot on West Division Street. When Witness 8 reached the middle of the lot, he observed a young black male, about twenty (20) years old, running southwest through the parking lot. He looked like he was running from something. Witness 8 continued to the east corner of Division and Sedgwick Streets. Witness 8 heard a gunshot, turned west and saw the police with the same black male on the ground in front of the police car. Witness 8 rode his bike back toward Clybourn Avenue and when he got to the west side of the police car, he observed a gun under the bumper of the police car. One of the officers appeared to be shook-up and asked the black male, "Why did you make me do that." (Atts. 45, 46).

In a statement with IPRA, on 19 May 2009, **Witness 13** provided an account of the incident consistent with the Summary of Incident and related Department reports. On the date and time of the incident, Witness 13 was driving east on Division Street, waiting for the light at Clybourn Avenue and Division Street to turn green when he heard sirens behind him. The light turned green and traffic began to move. A marked police car passed Witness 13 on the left, made a left turn on Clybourn Avenue and then circled back east onto Division Street. Two white police officers exited the police vehicle. At this point, Witness 13 was even with the police vehicle at Division Street and Clybourn Avenue, when he heard the officers yell, "Stop, put your hands up in the air." Witness 13's car window was down so he complied with the officers' commands. Witness 13 then turned his head to the left and saw that the commands were for a young black male who was crossing Division Street in front of the police car. The black male did not comply with the officer's commands. Both officers had their guns drawn and both

⁶ Witness 12 was identified as the OEMC caller in Event 0621916370. (Att. 11C).

⁷ Witness 15 was identified as the OEMC caller in Event 0621916782. (Att. 11D).

officers were giving commands. The black male then turned his body toward the officers and reached to his waist. Witness 13 was not sure which hand the black male used to reach to his waist. Witness 13 stated that at that point, he turned his head away and shots were fired. He heard the black male say "It's a BB gun." Witness 13 looked back and the black male was on the ground and the officers were putting handcuffs on him. Witness 13 provided a Map Quest picture marked with vehicle positions of the scene. (Atts. 47, 48).

Witness 2 indicated that his Roundtable panel statement would be sufficient for IPRA and did not provide a statement to IPRA. (Att. 62).

Attempts to contact **Witness 6, Witness 3, Witness 4, Witness 11, Witness 7, Witness 10, Witness 5**, who were identified as witnesses to the incident in the Case Supplementary Report (HM 525941) were unsuccessful. (Atts. 49-55, 62).

Attempts to interview **Witness 16 and Witness 7** who identified themselves as witnesses to the incident to the media were unsuccessful. (Atts.19, 20, 22, 23, 29, 31).

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A was 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 and Officer B were responding to a "flash message" of a "person with a gun" when they observed a male black subject, now known as Subject 1, matching the description. The officers, who had not exited their marked squad car, attempted to conduct a field interview at Division Street and Clybourn Avenue. Subject 1 ignored the officers orders to stop and show his hands and continued walking south across Division Street in a fast pace while holding his side. Subject 1 crossed in front of the officers' marked squad car with activated lights. The officers exited their vehicle and yelled at Subject 1 to, "Let me see your hands." Subject 1 turned, faced the officers while holding what the officers thought was a pistol in his hand. When Subject 1 turned and pointed the weapon at the officers. Officer A fired his weapon four times, striking Subject 1 three times. The Officers' 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 his partner's life.