

**INDEPENDENT POLICE REVIEW AUTHORITY
PUBLIC REPORT OF INVESTIGATION**

INVESTIGATION

NUMBER: Log # 1010896; U# 07-33

INVOLVED

OFFICER A: “Officer A” (Chicago Police Officer); Male/White;
27 years old; On Duty; In Uniform; Year of Appointment - 2002

OFFICER A’s

INJURIES: None Reported

INVOLVED

OFFICER B: “Officer B” (Chicago Police Officer); Male/Hispanic; 28 years old;
On duty; In Uniform; Year of Appointment – 2006

OFFICER B’s

INJURIES: None Report

INVOLVED

OFFICER C: “Officer C” (Chicago Police Officer); Male/White; 28 years old;
On Duty; In Uniform; Year of Appointment – 2007

OFFICER C’s

INJURIES: None Reported

VICTIM/

OFFENDER 1: “Subject 1” – Male/Black; 35 years old

VICTIM/

OFFENDER’S

INJURIES: Multiple gunshot wounds. Pronounced dead at the scene. Fatal

DATE/TIME: 13 November 2007, 2231 Hours

LOCATION: 16 N. Lorel
Beat 1522

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

SUMMARY OF INCIDENT:

On 13 November 2007, at approximately 2231 hours, Officers A and C were traveling east on Madison when they observed an individual now known to be Subject 1 driving a Cadillac west on Madison. The Cadillac had only one functioning headlight. The officers made a u-turn and proceeded to conduct a traffic stop with Subject 1. Before he stopped, Subject 1 turned north onto Lorel. He then stopped his vehicle at approximately 16 N. Lorel, on the west side of the street. Officers A and C stopped their marked squad car behind and to the right of Subject 1's vehicle. Officers A and C exited their vehicle and approached Subject 1, who remained seated in the driver's seat of his vehicle. Officers A and C approached the driver's side of Subject 1's vehicle. Subject 1 opened the driver's side door and placed his left foot on the pavement while he remained seated in the driver's seat. Officer C instructed Subject 1 to remain seated in the vehicle and asked him to produce his driver's license and proof of insurance. Officer C repeated his instructions because Subject 1 failed to comply. Subject 1 then informed the officers that he did not have a driver's license and attempted to provide the officers with his proof of insurance.

Subject 1 then used his cell phone and made a phone call. Beat 1512 (Officers B and D) arrived on the scene. Officer B exited his squad car and positioned himself near the rear passenger side of Subject 1 vehicle while Officer D stood near the trunk.

Officers A and C ordered Subject 1 to get out of his vehicle but Subject 1 refused. Subject 1 threw his cell phone toward the passenger side of his vehicle and leaned forward. Subject 1 then reached behind the small of his back with his right hand. Officers A and C repeatedly ordered him to show his hands. Subject 1 pulled a 9mm pistol from behind his back and pointed it toward Officers A and C. Officer A yelled, "Gun! Gun! He's got a gun!" Officer B also observed Subject 1 grab a gun with his right hand from the right side of his body and then point the gun at Officers A and C. Officers A, C, and B fired their weapons at Subject 1 striking him several times. Officer B then used his baton to "smash" the glass of the rear passenger's window so he could get a better view of Subject 1. Officer A discharged his weapon 14 times. Officer C discharged his weapon once and Officer B discharged his weapon 8 times. Officer D was not in a position to see Subject 1 with a gun and therefore did not fire his weapon.

INVESTIGATION:

Witness 1 related to the Roundtable Panel an account of the incident that was consistent with the Summary of Incident. (Att. 5) Witness 1 related that he was with Witnesses 2 and 3 and Subject 1 inside Witness 2's apartment drinking alcohol and listening to music. When they ran out of alcohol, Subject 1 left the apartment to buy more alcohol. When Subject 1 returned, they continued to drink alcohol until they ran out again. Witness 1 then gave Subject 1 the keys to his car so that Subject 1 could again go buy more alcohol. Subject 1 then left the apartment.

Approximately 15 – 20 minutes later Witness 2 received a telephone call from

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

Subject 1, asking them to unlock the front door of the apartment building. Witness 3 then went downstairs to unlock the door. When Witness 3 returned to the apartment he told Witness 1, "They just killed Subject 1." Witness 3 and Witness 1 then looked out the window facing Lorel Ave. where they saw two officers fire their weapons six or seven times. Witness 1 saw Subject 1 slumped over on the ground just outside the open driver's door of the vehicle. Witness 1 then went outside with his hands in the air as he approached the vehicle. Witness 1 saw one of the officers breaking the rear passenger-side window of Subject 1's vehicle.

Witness 1 informed the Roundtable Panel that in the past he had seen Subject 1 armed with a black "automatic" handgun. Witness 1 did not know if Subject 1 had a gun on him at the time he was shot by the officers. Witness 1 did not see a gun near Subject 1 when he saw Subject 1 on the ground. (Att. 5)

During an interview with Detectives A, B, and C, Witness A, related that he is a "rap artist" and uses a recording studio at **12 N. Lorel, 2nd floor**, to record music. (Att. 191) Witness 1 stated that Witness 2 runs the studio and charges artists for using the equipment. Witness 1 stated that on the day of the incident he arrived at the studio at approximately 1700 hours. Witness 1 stated that he and Witness 2 were the only ones at the studio until about 2000 hours, when Subject 1 and another male/black subject Witness 3 arrived. Witness 1 stated that they began drinking and recording music but they quickly ran out of liquor. Subject 1 and Witness 3 volunteered to go to a liquor store on Madison Ave. to purchase more alcohol. A short time later they returned with a half-pint of Remy Martin.

Witness 1 stated that they quickly drank the half-pint. Subject 1 left to purchase more alcohol. When he returned he told them that the liquor store had closed. Witness 1 stated that Subject 1 asked if he could borrow his car so he could buy more alcohol. Witness 1 gave Subject 1 the keys to his 1999 Cadillac and Subject 1 left.

Witness 1 stated that Subject 1 was gone about 15 or 20 minutes when Witness 2 told Witness 3 to go downstairs and unlock the entry door so Subject 1 could get back in. Witness 1 explained that there is no buzzer system on the exterior door. Witness 1 stated that Witness 3 returned with a "shocked look" on his face and blurted out, "They just killed Subject 1." Witness 1 stated he and Witness 3 went to the window and he saw a Chicago Police Officer fire approximately six shots toward the driver's side of the Cadillac. Witness 1 stated there was a Chicago Police Officer on the passenger side of his vehicle who was also firing his weapon. Witness 1 believed the officer on the driver's side of the Cadillac discharged his firearm more times than the other officer.

After the officers stopped shooting, Witness 1 saw Subject 1 on the ground, near the driver's door of the Cadillac. Witness 1 told Witness 3 that he was going to go downstairs because the car Subject 1 was driving belonged to him. Witness 1 stated that Witness 3 told him not to go downstairs because Subject 1 had a gun in his possession and the officer might also shoot Witness 1. Witness 1 went downstairs and identified himself as the registered owner of the vehicle that Subject 1 was driving.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

Witness 1 stated he had known Subject 1 for approximately 7 years and that they first met when they both worked at a flea market near Madison and Pulaski. Witness 1 stated he had seen Subject 1 in possession of a handgun on several other occasions. (Att. 191)

During an in-person interview with IPRA on 14 November 2007, Witness 1 reiterated the account of the incident he provided to the Roundtable Panel. Witness 1 added that after Witness 3 told him that the police had just killed Subject 1, Witness 3 stopped Witness 1 from leaving the apartment. Witness 3 told Witness 1 that Subject 1 had a gun. Witness 1 explained that Subject 1 and Witness 3 were together before coming to the apartment. (Att. 15)

During a telephone conversation on 19 November 2007, Witness 2, stated that on the night of the incident Witness 1 and another black male subject named Witness 3 were at Witness 2's apartment drinking alcohol. When they ran out of alcohol Subject 1 left in Witness 1's vehicle to go buy more alcohol. Witness 2 stated that he did not witness the shooting or hear any gunshots because the music was "turned up" in the apartment. Witness 2 also stated that on the night of the incident, after he learned that Subject 1 had been shot by the police, Witness 3 informed him that Subject 1 had a gun on him. (Att. 40)

During an in-person interview with IPRA on 14 January 2008, Witness 2 reiterated the account he provided on the telephone. (Att. 171) Witness 2 added that he and Subject 1 had been friends for approximately fifteen years. Witness 2 stated that on the night of the incident Subject 1 came to his house with Witness 3. When they ran out of liquor Subject 1 left the apartment to buy alcohol. At some point Subject 1 called Witness 2 and asked him to open the outside door of the apartment. Witness 2 told Witness 3¹ to go open the door for Subject 1. A few seconds later Witness 3 returned to the apartment and said that the police pulled Subject 1 over. A few minutes later, Witness 2 heard Witness 1 and Witness 3 saying that the police shot Subject 1. Witness 2 explained that he had the music turned up and that he never heard any gunshots. Witness 2 then looked out his apartment window and saw approximately twelve uniformed police officers outside on the street. Witness 2 also saw Subject 1 lying in the grass between the street and the sidewalk. Witness 2 stated that while he did not see Subject 1 with a gun, Witness 3 told him that Subject 1 had a gun on him. (Att. 171)

In an in-person interview with IPRA on 14 November 2007, Witness 4 stated that he is the owner of **Perfect Liquors located at 5318 W. Madison**. On the night of the incident he was working in the store when he heard what he believed to be five or six gunshots. Witness 4 did not go outside and did not witness the incident. Witness 4 also explained that although his store has interior and exterior surveillance cameras, none of the cameras record. (Att. 17)

¹ The identity of Witness 3 was never discovered, and therefore he was not interviewed.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

In an in-person interview with IPRA on 14 November 2007, Witness 5 stated that she did not witness the shooting. Witness 5 stated she was asleep in her apartment's living room on the 5300 block of W. Madison, when she heard what she believed to be approximately ten gunshots. Witness 5's daughter said, "Oh my God!" at which point Witness 5 jumped up and looked out the windows. Witness 5 saw several uniformed officers on the street and she saw a black male subject (Subject 1) fall out of the driver's seat his vehicle. Witness 5 stated that she did not see a gun in Subject 1's hand or on the ground near the vehicle. A short while later several additional police cars and an ambulance arrived on the scene. (Att. 18)

During an in-person interview with for IPRA on 14 January 2008, Witness 6 stated that she was doing her homework in her mother's bedroom when she heard approximately ten gunshots outside. Witness 6 ran to the living room and woke her mother. Witness 6 stated that she remained in the living room for about fifteen minutes and then walked to the back of the apartment and looked out a window. Witness 6 stated she saw numerous police cars and an ambulance outside. Witness 6 stated that she did not witness the shooting. (Att. 170)

In an in-person interview with IPRA on 14 November 2007, Witness 7 stated that she was in her apartment on the 5300 block of W. Madison, when she heard what she believed be about thirty gunshots. (Att. 20) Witness 7 ran to her window and looked out. From her third floor window, she saw four white or Hispanic, male, plainclothes officers. Witness 7 also saw "the victim" (now known to be Subject 1) laying face down on the ground. Witness 7 explained that when she looked out the window she saw four white or Hispanic male plainclothes officers shoot Subject 1 as he lay on the ground. Witness 7's mother, who lives across the hall from her, also heard the gunshots and came and knocked on her door. Witness 7 opened her apartment door for her mother. Witness 7 stated that she did not see a gun anywhere near Subject 1 as he lay on the ground. (Att. 20)

In an in-person interview with IPRA on 14 November 2007, Witness 8 stated that she did not witness the shooting. Witness 8 explained that she was in her apartment on the 1 block of N. Lorel, when she heard what she believed to be fifteen gunshots. Witness 8 and several of her family members ran outside to the courtyard of their building. From there Witness 8 saw four police officers with their guns drawn and Subject 1 laying face down on the ground. Witness 8 did not see a gun near Subject 1's body. (Att. 21)

In an in-person interview with IPRA on 14 November 2007, Witness 9 stated that she was in her apartment when she heard what she believed to be several gun shots. Witness 9 looked out her apartment window and saw that a black male "was shot by the police." Witness 9 refused to provide any additional information. (Att. 26)

In a telephone conversation with IPRA on 23 November 2007, Witness 10 related that at the time of the incident she was hiding behind a garbage can when she heard several officers and Subject 1 yelling at each other. Witness 10 stated that it appeared

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

that Subject 1 may have been taking photographs of the officers at the same time. Witness 10 stated that she then heard numerous gunshots and then saw Subject 1 lying on the ground. Witness 10 stated that she never saw Subject 1 with a gun, and added that if he did have a gun he had it “in his mouth” or in his car. Witness 10 explained that at the time of the incident she was hiding behind a garbage can and crawled away so the officers would not “get her too.” Witness 10 explained that she recognized Subject 1 as “a rapper from the neighborhood” she would sometimes see selling his CD’s. (Att. 65)

In a telephone conversation with IPRA on 28 November 2007, Witness 11 refused to provide her address. Witness 11 stated that on the night of the incident she was lying in bed when she heard shouting outside. Witness 11 looked out her window and saw two police officers standing near the opened driver’s side door of car parked near the curb. Witness 11 also saw a man (now known to be Subject 1) sitting in the driver’s seat of that vehicle with his feet out on the curb. Subject 1 appeared to be looking for something in his lap when one of the officers yelled, “Put your hands up.” A moment later Witness 11 heard numerous gun shots and she saw Subject 1 fall out of the car onto the ground. Witness 11 stated that while she did not see that Subject 1 had a gun, she could not see him clearly. Witness 11 refused to provide an in-person interview regarding this incident. (Att. 68)

In an in-person interview with IPRA on 18 February 2008, Witness 12 related that he was standing in front of his apartment building on the 5300 block of W. Madison when he heard what he believed to be several gunshots. Witness 12 did not know where the gunshots originated. Witness 12 then ran into his apartment. Witness 12 did not witness any other portion of the incident. (Att. 174)

During a canvass of the location of incident on 14 November 2007, Investigator A spoke with Witness 13. Witness 13 stated that he did not witness the shooting. Witness 13 stated that he was in his second floor apartment when he heard several male voices outside. Witness 13 heard the unknown male voices yell, “Get out of the car!” Witness 13 then heard what he believed to be fourteen to twenty-five gunshots. Witness 13 immediately looked out his front window and saw a uniformed officer handcuffing Subject 1, who was lying on the ground. Witness 13 did not see a gun near Subject 1. Witness 13 refused to provide any additional information and refused to provide an in-person interview regarding this incident. (Att. 27)

The Case and Tactical Response Reports contained an account of the incident that was consistent with the accounts provided to the Roundtable panel and the Summary of Incident. The reports indicate that during a traffic stop Subject 1 produced a handgun and pointed it at the officers. The officers, in fear for their safety, fired their weapons in Subject 1’s direction. Subject 1 was pronounced at 2320 hours at the scene. Subject 1’s gun was recovered on the scene. (Att’s 7-12)

According to the Detective Supplemental Report, Property Inventory #11136714, and the Department of Justice Bureau of Alcohol, Tobacco, Firearms, and Explosives National Tracing Center, the firearm recovered at the scene of the incident was a Hi-Point

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

Firearm, 9mm, with a black finish. This firearm was reported stolen from Indianapolis, Indiana, on 17 May 2006. The registered owner was Owner 1.

On the night of the incident Investigator B and OPS General Counsel A observed that Subject 1's vehicle had one functioning headlight². (Att. 66)

POD #649, located at 5300 W. Madison, did not record the incident. The camera's view of the location of incident was obstructed by several buildings. (Att. 53)

Evidence Technician photographs depict what appears to be the driver's side headlight of Subject 1's vehicle which was not working. The photographs also depict what appear to be multiple bullet holes to the interior and exterior driver's side door of Subject 1's vehicle, as well as a hole and blood stains to the driver's seat. The photographs also depict what appear to be several bullet holes to the rear passenger-side door of the vehicle. The rear passenger door's glass window is shattered.

The Evidence Technician photographs also depict Subject 1 lying on the ground near the open driver's side door of a vehicle. A black, semi-automatic handgun is on the ground near Subject 1's body. (Att's 70-118)

The Chicago Fire Department's Ambulance Report indicates that CFD Ambulance #23 were dispatched on 13 November 2007, at 2234 hours, and arrived at the scene at 2239 hours. Upon arrival the paramedics found Subject 1 laying face down next to a car, unresponsive, not breathing, and without a pulse. Subject 1 had numerous gun shot wounds to his head, chest, upper back, and abdomen. (Att. 37)

A report from the Illinois State Police Division of Forensic Services dated 12 December 2007 indicates that the firearms belonging to Officers A, B, and C were test fired and found to be in firing condition. (Att. 148) The ISP report also indicates that twelve of the bullets/bullet fragments submitted for comparison were fired from Officer A's weapon. Six of the bullets/bullet fragments were fired from Officer B's weapon and one bullet/bullet fragment was fired from Officer C's weapon. Four of the bullet/bullet fragments that were submitted for comparison were found to be unsuitable for testing or comparison and therefore could not be identified or eliminated as having been fired from any of the officers' weapons.

The ISP report also indicates that 11 of the fired casings were fired from Officer A's firearm and one casing from Officer C's firearm. According to the ISP report nine of the fired casings were fired from Officer B's firearm. (Att. 148)

A report from the ISP Division of Forensic Services dated 22 January 2009 indicates that Subject 1's firearm was examined, found to be in firing condition, and test fired. Test shots fired by the firearm were compared to the IBIS database; however, no

² Although Inv. B wrote that the passenger side headlight did not function, ET photographs show that the driver's side headlight was not functioning.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

identification was made. (Att. 193)

A report from the ISP Division of Forensic Services dated 08 January 2009 indicates that examination of Subject 1's firearm revealed a latent impression suitable for comparison. Comparison of the suitable latent impression to the copy of the card marked Subject 1 did not reveal an identification. Examination of 8 live rounds and the firearms magazine did not reveal any latent impressions suitable for comparison. Examination of a pair of inventoried scissors had been deferred. (Att. 192)

A report from the ISP Division of Forensic Services dated 10 February 2009 indicates that an AFIS evaluation of the suitable latent impression found on Subject 1's firearm revealed a latent impression suitable for AFIS processing. An AFIS search did not reveal an identification. (Att. 195)

Per ISP Forensic Scientist A, the latent fingerprint found on Subject 1's firearm was "lifted" from the inside of the grip on the handle. Forensic Scientist A stated that the person the print belongs to would have to unscrew and then remove the grips from the handle to make the print on the inside of the grip. (Att. 196)

A report from Orchid Cellmark, dated 31 August 2010, indicates that the partial DNA profile obtained from the swab of the 9mm semi-automatic firearm allegedly possessed by Subject 1 is a mixture consistent with at least three unknown individuals, including at least one male. Subject 1 cannot be excluded as a possible contributor to this mixture. (Att. 198)

The Office of the Medical Examiner Report of Postmortem Examination of Subject 1 determined that he sustained multiple gunshot wounds to his back, chest, abdomen, left hip/buttocks area, right and left arms, and right and left thighs. Subject 1 sustained eighteen gunshot wounds total. Examination of the skin surrounding each of the entrance wounds showed no evidence of close-range firing. The toxicological analysis indicated that Subject 1 tested positive for ethanol (Vitreous Humor: 152 MG/DL; Central Blood: 147 MG/DL). It was determined that Subject 1 died of multiple gunshot wounds. (Att. 175)

According to the Call Records obtained from Sprint Nextel Corporation, the last telephone number dialed from Subject 1's cell phoned was 312-XXX-XXXX. The call was placed on 13 November 2007, at 2230 hours, and lasted for 109 seconds. This investigation revealed that 312-XXX-XXXX belongs to Witness 2's cell phone. (Att's 40, 172)

Officer A related to the Roundtable Panel an account of the incident that was consistent with the Summary of Incident. (Att. 5)

The Detective Supplemental Report indicates that during an interview with Detectives A, B, and C, Officer A related that he was a Field Training Officer and that on the night of the incident he was working Beat 1524 with Probationary Police Officer C.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

(Att. 191) Officer C was the driver and Officer A was the passenger. While driving east on Madison Officer A observed a grey Cadillac driving west on Madison. One of the Cadillac's headlights was not working. Officer C made a U-turn and Officer A activated the squad car's emergency equipment. The Cadillac eventually came to a stop at 16 N. Lorel. Officer A used the squad car's PDT to inform the dispatcher of the location of the traffic stop. Officers A and C exited their squad car and approached the driver's side of the Cadillac. As the officers approached the driver, Subject 1, opened the driver's door and put his left foot outside of the vehicle. Subject 1 was the only occupant in the Cadillac. Officer A stood next to the vehicle, parallel to the driver's door, while Officer C stood near the Cadillac's rear door. Officer A stated that he attempted to call for an assist car but due to heavy radio traffic he was unable to get through to the OEMC dispatcher.

Officer A stated that Officer C informed Subject 1 of the reason for the traffic stop and asked Subject 1 for his driver's license and proof of insurance. Subject 1 replied that he did not have a driver's license. Subject 1 then retrieved an insurance card from the glove compartment and handed it to Officer C.

Officer A stated that Beat 1512 (Officers B and D) arrived to assist them. Officer B positioned himself near the Cadillac's rear passenger door while Officer D stood near the rear of the Cadillac.

Officer A stated that Subject 1 was ordered to exit his vehicle because he could not produce a driver's license. Subject 1 ignored the verbal directions and remained seated in the driver's seat with the driver's door open and his left foot on the ground. Officer A stated that Subject 1 then produced a cell phone and made a telephone call to an unknown individual. While on the phone Subject 1 looked at Officer A's name tag and stated into the phone, "Officer A is on some bullshit." Officers A and C continued to give Subject 1 verbal directions to hang up the cell phone and exit the vehicle. Subject 1 continued to ignore the officers. Officer A stated he again attempted to call for assistance but was unable due to radio traffic.

Officer A stated that Subject 1 remained on his cell phone call for approximately 15-30 seconds. Subject 1 then dropped the cell phone and moved his right hand to the small of his back. Officer A stated that he drew his weapon from his holster as Subject 1 moved his hand to his back. Officers A and C continued to order Subject 1 out of the vehicle. Officer A stated that Subject 1 pulled a black handgun from behind his back and pointed it directly at him. Fearing for their lives Officer A yelled, "Gun!" and then discharged his firearm several times at Subject 1. Officer A stated that he was approximately 5-7 feet away from Subject 1 when he discharged his firearm and that he moved southwest from Subject 1 to create distance between them at the same time.

Officer A stated that his firearm went into slide lock when the magazine was emptied. Officer A performed an emergency reload, but did not discharge his firearm after he reloaded. Officer A stated that he heard numerous gunshots but was unsure who was shooting. Officer A stated that Subject 1 eventually fell out of the Cadillac. Officer

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

A stated that Subject 1 was still holding his firearm when he fell out of the vehicle. Officer A used his radio to call a 10-1 (officer needs assistance) and reported shots had been fired and to request an ambulance for Subject 1. Officer A holstered his firearm and approached Subject 1. Officer A used his flashlight to move the firearm from Subject 1's right hand. Officer A stated that none of the officers touched Subject 1's firearm with their hands. (Att. 191)

During a telephone interview with IPRA on 17 October 2008, former Chicago Police Officer A³ stated he and his partner Officer C stopped Subject 1 because the vehicle Subject 1 was driving only had one working headlight. (Att. 185) After they stopped Subject 1's vehicle Officers A and C approached the driver's side. Subject 1 opened the driver's door but remained seated in the driver's seat. When asked for his driver's license and insurance Subject 1 stated that he did not have either. The officers then asked Subject 1 to exit the vehicle, but he refused to comply. As the officers repeatedly ordered Subject 1 to get out of the vehicle Subject 1 put his left foot on the pavement and began talking into his cell phone. Officer A saw Subject 1 reading his name tag while saying into the phone, "Officer A is on some bullshit." Subject 1 tried to pronounce Officer C's name but was unable to do so. At this point Officers D and B arrived on the scene. As the officers continued to order Subject 1 out of the vehicle, Subject 1 dropped his cell phone and leaned forward in the driver's seat. Officer A saw Subject 1 reach behind his back with his right hand and produce a blue-steel semi-automatic handgun. Officer A stated that Subject 1 immediately pointed the gun directly at him from about three feet away. Officer A believed that Subject 1 was about to shoot him. Officer A discharged his firearm at Subject 1 until his firearm went into "slide lock." Officer A was aware that other officers had fired their weapons, but he did not know which officers or how many gunshots he heard. Officer A stated that Subject 1 fell out of the car, dropping his gun to the ground. (Att. 185)

Officer C related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. (Att. 5)

The Detective Supplemental Report indicates that during an interview with Detectives A, B, and C, Officer C related an account of the incident that was consistent with Officer A's. Officer C related that he and Officer A exited their squad car and walked toward the driver's side of Subject 1's Cadillac. Officer C stated that as he walked by the Cadillac's trunk Subject 1 opened the driver's door and placed his left foot on the concrete. Officer C ordered Subject 1 to remain inside his vehicle. Officer C stated that they told Subject 1 that the reason they pulled him over was because only one of the Cadillac's headlights was operable. Subject 1 replied, "that's bullshit!" and began to turn the headlights on and off.

Officer C asked Subject 1 for his driver's license and proof of insurance. Subject 1 told the officers that he did not have a driver's license. Subject 1 retrieved the proof of

³ Officer A resigned from the Chicago Police Department on 23 June 2008. The reason given was other employment.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

insurance from the Cadillac's glove box. Officer C ordered Subject 1 out of the vehicle numerous times but Subject 1 refused to get out. Subject 1 then made a call on his cell phone to an unknown subject. Officer C heard Subject 1 say into the phone, "Officer A is on some bullshit" and that Subject 1 could not pronounce Officer C's name.

Subject 1 was ordered to end the telephone call and exit the vehicle numerous times. Subject 1 still refused to comply. Officer C saw Subject 1 place the cell phone down and reach behind his back with his right hand. Officers C and A ordered Subject 1 to show his hands. Subject 1 then pointed a black handgun at Officer A. Officers C and A yelled, "Gun!" Officer C unholstered his weapon and fired it once at Subject 1.

Officer C saw Subject 1 fall forward from the driver's seat still holding the black handgun. Officer C stated that he saw Officer A move the handgun from Subject 1's hand with his flashlight. (Att. 191)

In a statement to IPRA on 20 July 2008, Officer C stated that he and his partner, Officer A, pulled Subject 1 over for driving with only one headlight. (Att. 183) As both officers approached Subject 1's vehicle Subject 1 opened the driver's side door. Subject 1 placed his left foot on the pavement as if he were going to get out of the car. Officers A and C ordered Subject 1 to stay in the car. The officers told Subject 1 that they pulled him over for only having one working headlight and asked him for his driver's license and insurance. Subject 1 told the officers that he did not have a driver's license, but that he did have insurance. At this point the officers asked Subject 1 to get out of the car but he said, "No." The officers repeatedly asked Subject 1 to get out but he continued to refuse. Subject 1 then made a telephone call from his cell phone. Officer C stated that he heard Subject 1 say into cell phone, "Officer A is on some bullshit." Subject 1 tried to say Officer C's name after reading his nameplate but was unable to pronounce it. Subject 1 then threw his cell phone onto the front passenger seat. With his right hand Subject 1 reached behind his back, at which time Officers A and C ordered Subject 1 to show them his hands. Officer C then heard Officer A yell, "Gun!" Officer C saw that Subject 1 was holding a gun in his right hand, raising it toward Officer A. Officer C stated that he then fired his weapon once and heard multiple gunshots. Officer C explained that he experienced "tunnel vision" during the shooting, and that everything after the shooting was "blurry." Officer C stated that he believed he was in "shock" immediately after the shooting. Officer C stated that immediately after the shooting he stood by his squad car and speaking with ADS MA and several detectives. (Att. 183)

Officer B related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. (Att. 5)

During an interview with Detectives A, B, and C, Officer B stated that he and his partner, Officer D, were driving east on Madison when they observed Beat 1524 (Officers A and C) at 16 N. Lorel and stopped to assist. Officer B saw Officers A and C standing near the driver's side of Subject 1's Cadillac. Officer B saw that the driver's side door of the Cadillac was open. Officer B approached the Cadillac's passenger side, from the rear. Officer B heard Officer A order Subject 1 to exit the Cadillac. Officer B

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

walked to the rear passenger window and saw Subject 1 lean forward and produce a handgun with his right hand. Officer B saw Subject 1 point his gun at Officer A. Officer B yelled, "Gun!" to warn the other officers. Officer B also heard Officer A yell, "Gun!" Officer B heard gunshots and believed Officers A and C were being shot at. Officer B stated he discharged his firearm 7-8 times at Subject 1.

When the gunshots stopped Officer B used his flashlight to break the Cadillac's rear passenger window because he could not see into the vehicle and was not sure if Subject 1 was still a threat. Officer B then approached the driver's side of the Cadillac and saw Subject 1 lying partially out of the vehicle with a handgun next to him. Officer B then handcuffed Subject 1. (Att. 191)

In two separate statements to IPRA on 15 July 2008 and 23 December 2008, Officer B stated he and Officer D assisted Officers A and C during a traffic stop involving Subject 1. (Att's 184, 189) Upon arrival Officer B saw Officers A and C standing near the open driver's side door of Subject 1's vehicle. Subject 1 was seated in the driver's seat of that vehicle. Officers B and D exited their squad car, at which time Officer B stood near the rear passenger window of Subject 1's vehicle. Officer B heard Officers A and C asking Subject 1 to exit his vehicle, but Subject 1 remained in his vehicle. Officer B saw Subject 1 lean forward and reach around his right side with his right hand. When he raised his right hand Officer B saw that he was holding a handgun. Officer B saw Subject 1 point the gun at Officers A and C. Officer B stated that he screamed, "Gun!" when he saw Subject 1 holding the gun. Officer B then discharged his firearm several times at Subject 1 through rear passenger side window. Officer B also saw Officer A discharge his weapon at Subject 1 at the same time. When the shooting stopped Officer B used his baton to smash out the remaining glass of the window so he would be able to see into the car. Officer B saw that Subject 1 had fallen out of the car. Officer B then ran around to the driver's side of Subject 1's vehicle and saw one of the officers kick a gun away from Subject 1's hand. Officer B did not know which officer kicked the gun. Officer B and one of the other officers then handcuffed Subject 1. (Att's 184, 189)

Officer D related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. (Att. 5)

The Detective Supplemental Report indicates that during an interview with Detectives A, B, and C, Officer D stated he was driving the squad car and Officer B was the passenger. Officer D stated that when he and Officer B saw Officers A and C at 16 N. Lorel with their emergency equipment activated he and Officer B stopped to provide assistance. Officer D saw Officers A and C standing near the driver's side of the Cadillac speaking with the driver Subject 1. Officer A motioned with his hand for Officer D to assist them.

Officer D exited his squad car and positioned himself approximately 10 feet away from the rear of the Cadillac. Officer D saw Officer C holding a document that was later discovered to be proof of insurance. Officer D heard Officer A yell, "show me your

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

hands!” Officer D then heard Officer A yell, “Gun!” Officer D then backed away from the Cadillac and pointed his firearm but did not fire it. Officer D explained he did not discharge his firearm because he did not have a clear shot at Subject 1, and the other officers were rotationally in a crossfire situation. Officer D saw Officers A, C, and B discharge their firearms. Officer D stated that when the shooting stopped he ran to the driver’s side of Subject 1’s vehicle and saw the other officers handcuffing Subject 1. Officer D stated that an ambulance was requested and notifications were made over the radio. (Att. 191)

In a statement to IPRA 09 July 2008, Officer D related that he and his partner, Officer B, assisted with Officers A and C with a traffic stop involving Subject 1. Officers D stated that when he first pulled up onto the scene he could see Subject 1 through the rear window sitting in the driver’s seat. Officer D heard Officers A and C ask Subject 1 for his identification. When Subject 1 could not produce his identification he was asked to exit the car but Subject 1 refused. Officers A and C stood next to the open driver’s side door of Subject 1’s car. As Officer D approached the trunk of the car he heard Officers A and C yell “Gun!” Officer D then heard several gunshots. Officer D stopped and held his gun in both of his hands. Officer D stated that he did not fire his weapon because he did not have a clear view of Subject 1. Officer D also did not see if Subject 1 had a gun. When the shooting stopped Officer D ran around Subject 1’s car to the driver’s side and saw Subject 1 laying face down on the sidewalk. Officer D also saw a black semi-automatic handgun on the ground about one foot away from the opened driver’s door of Subject 1’s vehicle. (Att. 182)

CONCLUSION AND FINDING:

This investigation found that Officer A’s, Officer C’s, and Officer B’s use of deadly force was in compliance with Chicago Police Department policy. According to the Chicago Police Department’s General Order 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 like to cause death or great bodily harm;

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1010896; U #07-33

- b. attempted 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 officers provided separate and consistent accounts of the incident, that Subject 1 refused to comply with the officers’ orders during a traffic stop and that Subject 1 produced a semi-automatic handgun and pointed it at Officers A and C. Fearing for the safety of Officers A and C, Officers A, C and B discharged their firearms at Subject 1. It was reasonable that the officers feared for their safety when Subject 1 repeatedly failed to comply with their verbal direction and then pointed a firearm at Officers A and C.

The officers’ accounts that Subject 1 had a gun are corroborated by statements by witnesses who spent the evening with Subject 1. On the night of the incident, prior to Subject 1 being pulled over by the police, he was in Witness 2’s apartment with Witness 1 and another individual named Witness 3. Witnesses 1 and 2 both stated that Subject 1 and Witness 3 came to the apartment together. Both Witness 2 and Witness 1 stated that immediately after they learned that Subject 1 had been shot Witness 3 told them that Subject 1 had a gun on him. A gun was recovered on the scene of the incident.