

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

INVESTIGATION

NUMBER: U# 07-22, Log #1007557

OFFICER

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 31 years old;
On Duty; In Full Uniform; Year of Appointment – 2002 .

OFFICER’S

INJURIES: None reported

SUBJECT:

“Subject 1”; Male/Black; 23 years old

SUBJECT’S

INJURIES: Gunshot wound to upper shoulder, traveling through the neck.
Treated at Christ Hospital, good condition.

INITIAL

INCIDENT : Traffic stop in which subject exited vehicle and fled with gun

DATE/TIME

OF INCIDENT: 15 July 2007, at approximately 1131 hours

LOCATION:

11528 S. Yale
Beat 522

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

SUMMARY OF INCIDENT:

On 15 July 2007, at approximately 1131 hours, Officers C and D of the Special Operations Section were working a mission because of high gang activity between 115th to 127th Streets and between State and Normal. While on patrol at 114th and Stewart, Officers C and D observed the subject, Subject 1, traveling in a vehicle without wearing a seat belt. The officers followed Subject 1 for several blocks and kept in mobile-to-mobile radio contact with other officers. Officers C and D activated their emergency equipment and attempted to curb Subject 1's vehicle. Subject 1 drove through a vacant grassy lot at 11542 S. Princeton and stopped in an alley at 11543 S. Princeton. Subject 1 fled from the vehicle while holding what officers said was a black semi-automatic handgun. Officers C and D contacted Officers A and B, telling them that Officer C was pursuing Subject 1 on foot, while Officer D used the squad car to attempt to cut off Subject 1. Subject 1 ran east through a gangway while carrying the weapon. Officers A and B traveled north on Yale. Officer A dropped off Officer B and then reversed the squad car to 11543 S. Yale.

Officer B ran south on the west side of Yale and saw Subject 1 run through a gangway. Officer C saw Subject 1 with a gun and yelled for him to drop it. Subject 1 backed out of the gangway. Officer C ran through a yard south to cut off Subject 1. Officer A observed Subject 1 crouched behind a bush with a weapon in his hand and pointed in the direction of the gangway. Officer B had his weapon out and ordered Subject 1 to drop his weapon. Subject 1 stood up and ran toward Officer B. Subject 1 threw his weapon east, to 11529 S. Yale, and then charged at and tackled Officer B. Subject 1 and Officer B struggled for control of Officer B's weapon. Subject 1 placed both of his hands around Officer B's hand at the trigger. Officer B yelled, "He's got my gun, shoot him!" Officer A, fearing for his partner's safety, drew his weapon and fired once, striking Subject 1 on the rear shoulder. Subject 1 released Officer B's weapon but continued to struggle with the officers. Officers C and D assisted Officers A and B, and Subject 1 was handcuffed. He was transported to Christ Hospital. CPD Sergeant 1, who was assigned to Beat 520, recovered Subject 1's weapon.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

INVESTIGATION:

Officer C related to the Roundtable panel that after Subject 1 fled from the vehicle and he [Officer C] followed him on foot, Subject 1 emerged from a gangway with his gun and came face-to-face with him. Officer C drew his weapon and shouted, "He's got a gun" Subject 1 fled. Officer C heard Officer B yell, "Help me, he's got my gun." Officer C heard one shot and went to the scene of the shooting. Officers A, B, and C handcuffed Subject 1. Officer C said there was no struggle with Subject 1 after he was handcuffed.

Officer B told the Roundtable panel that he and his partner, Officer A, were in the vicinity of 115th and Stewart when they received a radio transmission to assist Beat 4492 because the driver of a vehicle "bailed out" and ran toward 116th Street. Officer B exited his squad car and proceeded south on Yale on the sidewalk. Officer A drove the squad car in reverse to 11543 S. Yale. Officer B saw Subject 1 exit the gangway with a gun and crouch behind a shrub in a "ready position" with a weapon in his hand pointed downward toward the gangway. Officer B drew his weapon, announced his office and said, "He's got a gun! Drop the gun!" Subject 1 stood upright, brought his weapon to his side and stepped toward Officer B. Subject 1 tossed his weapon to 11529 S. Yale. Subject 1 looked at Officer B, who attempted to holster his weapon. Officer B said he must have missed holstering his weapon on the first try. As he tried to holster his weapon a second time, Subject 1 charged and tackled him.

Officer B continued that he had one hand on his gun's "handle" (grip), and Subject 1 placed both of his hands over Officer B's weapon, one hand on the barrel and the other hand over the slide and trigger guard. Officer B and Subject 1 rolled on the ground, having a "tug of war" over the weapon. Officer B felt Subject 1 gaining control of the weapon. Officer A ran toward the scene to assist. Officer B yelled, "He's got my gun! You are going to have to shoot him!" Officer A attempted to subdue Subject 1 using control tactics. Officer B yelled, "He's got the gun! Shoot!" Officer A fired one round, striking Subject 1 in the rear shoulder area. Officer B re-holstered his gun while still wrestling with Subject 1. More officers arrived and subdued Subject 1. Officers C and D handcuffed Subject 1. Officer B said there was no struggle with Subject 1 after he was handcuffed. Officer B said that he is 6 feet 2 inches tall and weighs 185 pounds.

Officer A related to the Roundtable panel that after he and Officer B received the radio transmission from Officers C and D about Subject 1 fleeing from 115th and Stewart, he drove north on Yale. After Subject 1 exited his vehicle and fled east on foot, Officer B exited the squad car, and Officer A drove in reverse down Yale. Officer C radioed a description of a "male black, white t-shirt with a weapon." Officer A observed Subject 1 exit a gangway while holding a weapon. Subject 1 crouched by a bush. Officer B, who had his weapon drawn, approached Subject 1 and announced his office. He ordered Subject 1 to drop his weapon. Subject 1 brought his weapon to his side and stepped toward Officer B while at the same time throwing his weapon overhead.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

Officer A related that Subject 1 charged Officer B, who attempted to holster his weapon. Subject 1 grabbed Officer B's weapon and the two men fell to the ground. Subject 1 had both hands over Officer B's weapon, and the two men struggled. Officer B yelled, "Help! He's got my gun! You are going to have to shoot him!" Officer A tried to use control tactics on Subject 1. Officer B yelled, "Got gun! Shoot!" Officer A, who was less than a foot away from Subject 1, fired once into Subject 1's shoulder. Subject 1 continued to struggle. More officers arrived and they subdued Subject 1. Officer A said no struggle occurred after Subject 1 was handcuffed.

CPD Detective 1 from Area 2 (now Area South) related that he spoke with Subject 1 at Christ Hospital. Subject 1 said that he drove through a stop sign near 115th and Eggleston. As he continued driving, he observed four marked police vehicles. Two of the vehicles drove past him going in the opposite direction, while the two other police vehicles followed him. Subject 1 turned his vehicle into an alley off Stewart, drove through a vacant lot, exited the vehicle and fled on foot. Subject 1 ran into a gangway toward Yale. As he ran onto Yale, he observed a white male uniformed officer with a weapon pointed in his direction. The officer yelled, "Get down to the ground!" with which Subject 1 complied. As Subject 1 lay on the ground on his stomach and while handcuffed, Subject 1 heard more voices yell, "Shoot him. He's got a gun!" Subject 1 observed a gun close to his neck and saw a finger on the trigger. Subject 1 turned his head away and heard a single shot. Subject 1 said he did not have a gun in his possession during the incident. CPD Detective 1 estimated that Subject 1 was approximately 6 feet 2 inches to 6 feet 3 inches tall and 280-290 pounds. He added that there were no powder burns on Subject 1.

In a statement to the Office of Professional Standards¹ on 15 July 2007, Witness 1, related that at the time of the incident, he was sitting in his residence at 1XXXX S. Yale and heard a loud commotion outside. He looked out his front living room window and saw an unknown black male, approximately 6 feet to 6 feet 2 inches tall, 250 pounds, running north on Yale. Witness 1 opened his front door and observed a uniformed white male officer run through an empty lot eastbound onto 115th and Yale. The officer ran toward the black male as the black male began to run south on Yale. The officer tackled the black male to the ground. Two white male uniformed officers ran toward the first officer and the black male.

Witness 1 continued that the first officer brought the black male's left arm behind his back. The two white male officers and the first officer kicked and hit the black male. Witness 1 heard a loud gunshot. The black male then yelled, "I got shot. I've been shot." The officers handcuffed the black male. Several moments later, one officer walked across the street from 11528 S. Yale, bent over and picked up what Witness 1 believed was an "automatic" weapon. Witness 1 was not "clear" on which officer fired the weapon.

The canvass did not produce an eyewitness.

¹ The Independent Police Review Authority replaced the Police Department's Office of Professional Standards [OPS] in 2007.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

Event Query #0719609770 indicated that a young male called 911 and asked for an ambulance, but then hung up. On 13 Aug 2007, the R/I telephoned the number in the event query twice. Upon the second call, a male who identified himself as [Name Withheld], 22 YOA, 1XXXX S. Wentworth, related that he did not witness the shooting and did not call 911 for an ambulance, but he did arrive on the scene after the incident. He said it was possible that someone else used his phone to make the 911 call, but he did not know who that person could be.

In conversations with a male who identified himself as **Witness 2**, 1XXXX S. Yale, Witness 2 related that he did not witness the shooting, but saw a black male [believed to be Subject 1] being arrested. Although Witness 2 refused to be interviewed, he related that at the time of the incident, he was in his home and heard tires screeching outside and then yelling. He then heard a “pow.” Witness 2 exited his house and looked south down Yale and saw officers on top of a black male who was on the ground. One of the black male’s hands was handcuffed, but the second cuff was loose. One white male uniformed officer bent down and punched the black male’s face three times. Another white male uniformed officer had his knee on the black male’s back, and a third white male uniformed officer had a knee on the black male’s neck. The black male was not resisting at that time. Witness 2 was concerned that the first officer punched the black male after he was already shot. Witness 2 said he had a lawsuit pending against some other officers for dropping off his son in a “Latin Kings” neighborhood.

The ambulance report indicated that paramedics arrived at approximately 1135 hours and found Subject 1 lying face-down on grass and handcuffed. He had a gunshot wound to the neck, with the entrance at the midline, lower front of the neck, and the exit in the left back, shoulder area.

At Christ Hospital, **Subject 1** refused to do an interview with OPS before speaking with his lawyer. Subject 1 did not respond to letters that sought an interview.

In a conversation with OPS on 15 July 2007, **Doctor A, the attending physician** at Christ Hospital, related that the bullet that struck Subject 1 entered the right side of his neck, traveled through his left shoulder and shattered his collarbone before exiting. Subject 1 did not sustain any life-threatening injuries.

Subject 1’s **medical records** indicated that neither of his two wounds had evidence of stippling or burn marks. He suffered a fracture of the left clavicle.

The **photographs** from the Forensic Services Division depict the scene, including fired evidence. Evidence Technician photographs depict Subject 1 while he was being treated at the hospital and Officer B, including apparent damage to his pants and red marks on his right hand and one of his legs.

The description of the incident that was included in the **To-From-Subject Report from CPD Assistant Deputy Superintendent A** was consistent with the Summary of Incident. In addition, CPD Assistant Deputy Superintendent A related that when Officer

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

A initially attempted to fire at Subject 1, his weapon did not fire. Officer A then cleared his weapon and fired one round at Subject 1. Subject 1 released Officer B's weapon but continued to struggle against being handcuffed. Subject 1's weapon was identified as a Glock 9mm semi-automatic pistol, with a 30-round capacity magazine.

Subject 1's **Arrest Report** includes a narrative that is consistent with the Summary of Incident. Subject 1 was charged with U UW by a felon and possession/use of a firearm; attempting to disarm a police officer; aggravated battery of a police officer and not wearing a seat belt. Subject 1 was described as 6 feet 1 inch tall, 285 pounds.

The **General Offense Case Report** indicated that before the shooting occurred, Subject 1 hid behind a bush in front of 11532 S. Yale and came out from behind the bush when Officer B exited the gangway at 11534 S. Yale. CPD Sergeant 1 recovered Subject 1's weapon from 11529 S. Yale. Also recovered at that address were the four 9mm rounds and a "piece of the handle of the offender's weapon."

The **summary of the radio transmissions** provided by the Office of Emergency Management and Communications indicated that on 15 July 2007, at approximately 1131 hours, the Zone 9 dispatcher said that information from a Citywide channel was that there was a "10-1" (officer needs assistance) and a report of shots fired by the police at 115th and Harvard [indicating Officer A's discharge was immediately reported]. At approximately 1208 hours, the dispatcher said the persons involved at 115th and Yale was to be transported to Christ Hospital.

Officer A's TRR indicated that, in addition to firing his weapon at Subject 1, he kicked him to overcome his resistance. Officer A was kneeling less than 5 feet from Subject 1 when he fired at him.

Officer B's Tactical Response Report indicated that he used punches and a knee strike during the struggle with Subject 1. Officer B's **Officer Battery Report** indicated that he had no apparent injury.

The **Crime Scene Processing Report** indicated that Officer A's weapon had a 15-round magazine [fully loaded would be 15+1=16]. Fourteen 9mm+P cartridges were recovered from Officer A's weapon (13 in the magazine and one from the chamber). One 9mm+P cartridge and one fired 9mm+P casing were recovered from the parkway at 11526 S. Yale [total of 16]. A fired bullet was recovered at the curb at 11526 S. Yale. The Glock pistol was recovered along with sixteen 9mm cartridges. Four 9mm cartridges were recovered from the parkway at 11529 S. Yale, and one 9mm cartridge was recovered from the floor of the driver's compartment of Subject 1's car. An internal magazine spring was recovered in the parkway at 11529 S. Yale. CPD Sergeant 1 turned over the Glock pistol to the Forensic Investigators. A Gun Registration check found that the Glock pistol was reported stolen.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

The **Firearms Trace Summary** from the Bureau of Alcohol, Tobacco, Firearms and Explosives indicated that Subject 1's pistol was purchased in Riverdale, IL, on 09 March 2007 by Stanley Cohen, 253 W. 94th St.

A report from the Illinois State Police ("ISP") Division of Forensic Services dated 03 December 2007 indicated that Officer A's weapon was examined, found to be in firing condition and test fired. The recovered 9mm+P casing and the bullet were found to have been fired from Officer A's weapon. The Glock weapon was also examined, found to be in firing condition, and test fired. The magazine was found to fit in the Glock, but it would not function in that weapon.

An ISP report dated 27 September 2007 indicated that no latent impressions suitable for comparison were found on the Glock pistol, the 21 live 9mm cartridges, the internal magazine spring or the magazine.

An ISP report dated 20 May 2008 indicated that Subject 1 could not be excluded from having contributed to a mixture of DNA profiles identified in swabs from the Glock. Approximately 1 in 2 black, 1 in 3 white, or 1 in 3 Hispanic unrelated individuals could not be excluded from having contributed to that mixture of DNA profiles, which were interpreted as a mixture of at least three people. The report also indicated that Subject 1 could not be excluded from having contributed to a major human DNA profile identified in swabs from Officer B's pistol. Approximately 1 in 340,000 black, 1 in 6.1 million white, or 1 in 8 million Hispanic unrelated individuals could not be excluded from having contributed to that profile. ISP Forensic Scientist A, who prepared the ISP report, related that Subject 1 was the "most significant contributor" of the DNA recovered from Officer B's pistol. She added that Subject 1 left more DNA on the pistol than did Officer B.

The **Case Supplementary Report** dated 26 July 2007 indicated that other officers who took part in Subject 1's arrest included Officers E, F, G, and H. Injuries to Officer B were described as scratches and abrasions to his right hand [knuckle area], abrasions to his right knee and soreness to the back of his head. Officer B said he would seek treatment on his own. The Supplementary Report contained a description of the incident that was consistent with the Summary of Incident. In addition, the detectives related that when they were on the scene, they learned that when Subject 1 threw his weapon and it hit the ground, the "33 round" capacity "clip" disengaged from the weapon, scattering several live rounds. **Officer B** related an account of the incident to the detectives that was consistent with his Roundtable account. Officer B related that he remembered hearing a "click" during the incident and believed that Officer A's gun might have misfired one time. After Officer A fired, Subject 1 continued to struggle, but eventually stopped. For safety reasons and because people were coming out of their homes following the shooting, Officer A went to 11529 S. Yale and recovered the gun Subject 1 had thrown.

The same Case Supplementary Report indicated that **Officer A** provided an account that was consistent with his Roundtable account. In addition, Officer A said that

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

when he first tried to fire at Subject 1, his weapon misfired, at which time he “jacked” the slide of the weapon, ejecting the misfired round. He then fired one shot at Subject 1’s shoulder area. Subject 1 struggled for a short time and then gave up. Other officers assisted in subduing and handcuffing Subject 1. Officer A recovered Subject 1’s handgun and turned it over to CPD Sergeant 1.

The same Case Supplementary Report included an account from **Officer C**, which was consistent with his Roundtable account. **Officers D, E, F, G, and H** were also interviewed by the detectives.

Officer D related to the detectives that as he drove south on Yale, he saw Officers A, B, and F struggling with Subject 1. As Officer D exited his vehicle, he saw Subject 1 with his hands on Officer B’s gun, wrestling with Officer B to control it. Officer B yelled for help and that Subject 1 had his gun. Officer A then fired at Subject 1, who continued to struggle. Officer A helped arrest Subject 1.

Officers G and H told the detectives that they monitored the foot chase and drove south on Yale and saw Officer B wrestling on the ground with Subject 1 as Officers A and F tried to subdue him. Officer H saw Subject 1’s hands on Officer B’s gun. As Officers G and H were exiting their car, they heard Officer B yell for help and that Subject 1 had his gun. Officer A then shot Subject 1. Officers G and H assisted in arresting Subject 1.

Officer E told the detectives that after his partner, Officer F, exited the squad car to help pursue Subject 1, Officer E stopped in the alley at 11528 S. Yale. Officer E saw, through the vacant lot, that Officers A and B were wrestling with Subject 1 on the ground. Officer E exited the squad car and went through the lot to help his partners. He heard Officer B yell for help and that Subject 1 had his gun, and then Officer E heard a gunshot. He assisted in the arrest.

Officer F related to the detectives that he and his partner, Officer E, were behind Officers C and D when the latter attempted to stop a vehicle at 115th and Princeton. After Subject 1’s vehicle drove through a yard, Officer F exited his squad car at approximately 11535 S. Princeton and assisted in the foot pursuit. Officer F started to follow Officer C and heard Officer C say on the radio that the offender had a gun. Officer F observed Subject 1 tackle Officer B, and he saw Subject 1 with his hands on Officer B’s gun. Officer B shouted for help, that Subject 1 had his gun and that he should be shot. Officer A shot Subject 1.

The same Case Supplementary Report included a summary of the interview CPD Detective 1 had with Subject 1 at the hospital, which was consistent with CPD Detective 1’s Roundtable account. The detectives also interviewed a witness, **Witness 3**, 1XXXX S. Yale. Witness 3 related that at the time of the incident, she was lying on her bed and heard tires screeching in front of her home. She was on her way to her upstairs front window when she heard a gunshot. She looked out the window and saw two or three officers fighting with a big black guy. The officers put handcuffs on him. The black guy

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

yelled that he was shot. One officer yelled something about finding the gun. One officer went across the street and he said that he found the gun, but she did not see him pick it up.

In a statement to IPRA on 23 May 2008, Officer B provided an account that was consistent with his Roundtable account and with what he told the detectives. In addition, Officer B related that before he exited his squad car to pursue Subject 1 on foot, he heard a car-to-car transmission that Subject 1 had exited his vehicle and was armed with a pistol. Officer B continued that when he was struggling for his gun with Subject 1, and Officer A came to his aid, Officer A kicked Subject 1 in the face, with no effect. Officer B felt that Subject 1 was gaining more control of his weapon than Officer B had, and he yelled, "Shoot him!" Officer A got on one knee and tried twice to fire his weapon, but it misfired. On the third time, he shot Subject 1 in the shoulder. Subject 1 continued to struggle until Officer H arrived and assisted Officers A and B placing Subject 1 into custody. Officer B added that he did not strike Subject 1 before Officer A kicked him. Officer B was in contact with Subject 1's body when Officer A fired. No other officers were on the scene when Officer A shot Subject 1. Officer B used punches and knee-strikes on Subject 1 after he was shot, but before he was handcuffed. Officer B did not recall if Subject 1 continued to struggle after he was handcuffed. Officer B said he sustained abrasions and scratches to his right hip, abrasions to his right knuckles and a knee and a bump on the right side of his forehead, but he did not seek medical attention. Officer B said he was 6 feet 2 inches tall, 185 pounds.

In a statement to IPRA on 15 May 2008, Officer A provided an account that was consistent with his Roundtable account and with what he told the detectives. In addition, he said that he tried to fire twice at Subject 1, but his weapon malfunctioned. During the malfunction, Officer A tapped his magazine and racked the slide, which chambered a round and ejected a live round. When he fired at Subject 1, Officer B's gun was positioned in Subject 1's hands, and Officer A was to the left of Subject 1, on one knee. He could not see if Officer B had either of his hands on his weapon then. When Officer A fired, the tip of his barrel was less than a foot from Subject 1's left shoulder. After Subject 1 was shot, he still was not compliant and struggled with Officer B for his gun. Officer A might have kneeled on Subject 1 to stop him from struggling. Prior to the shooting, Officer A kicked Subject 1 in the face while Officer B and Subject 1 struggled for the weapon. The kick had no effect. Officer A said he recovered Subject 1's weapon because he did not want the gun or the officers' safety to be compromised. Officer A said he was 6 feet 1 inch tall, 215 pounds.

In a statement to IPRA on 23 April 2009, Officer C gave an account of the incident that was consistent with his Roundtable account and the Summary of Incident. In addition, Officer C said that after Subject 1 fled from his car and ran into a gangway, Officer C ran into the gangway one house north of where Subject 1 fled. Subject 1, who was holding a handgun with an extended magazine, then appeared at the front of the same gangway Officer C was in. Officer C drew his weapon and took cover. Subject 1 fled north, and Officer C went to the rear of the house and then north in the back yard. He heard Officer B yell, "Help, he's got my gun!" Officer C went back to the first gangway

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

and went toward Yale. He heard a gunshot and went to Yale. He saw Subject 1 was in handcuffs. Officers A, B, and D were standing on Yale north of Officer C. Officer did not see any officer struggle with Subject 1, and he did not see Subject 1 throw his weapon or recall if he saw it before a sergeant recovered it.

In a statement to IPRA on 05 March 2009, Officer D provided an account of the incident that was overall consistent with what he told the detectives and the Summary of Incident. However, Officer D said he did not see Subject 1 holding a gun during the struggle with Officers A and B, and he did not see Officer A fire at Subject 1. He did not recall if he told detectives that he saw Subject 1 with his hands on Officer B's gun. In addition, Officer D said that after he drove onto Yale and observed Officers A and B struggling with Subject 1, he exited the squad car. Officer D observed a handgun on the street and then heard one shot. After the shooting, he assisted in handcuffing Subject 1 because Officers A and B had not gained control of Subject 1's hands. He did not recall seeing Officer F on the scene when Officers A and B struggled with Subject 1. After the shooting, Officer A told Officer D that he fired at Subject 1 because he was grabbing Officer B's gun. Officer D did not remember if he saw Subject 1 throw a firearm during the incident.

In a statement to IPRA on 03 March 2009, Officer E related an account of the incident that was consistent with the Summary of Incident. In contrast with what Officer E told the detectives, he said in his IPRA statement that he did not see any officer wrestle with Subject 1 before the gunshot and did not recall telling detectives that he saw such wrestling. After Officer E came upon Officers A and B, he observed Subject 1 pull away from those officers as they attempted to handcuff him. He did not observe any officer strike Subject 1 when he was assisting in handcuffing him.

In a statement to IPRA on 24 March 2009, Officer F provided an account that was consistent with the Summary of Incident, but it differed in detail from some of the account that the detectives attributed to him. Officer F said he saw Subject 1 holding a weapon when Subject 1 exited his car. Officer F chased Subject 1 on foot, and he saw Subject 1 running through a gangway. By the time Officer F reached the gangway, he saw that Subject 1 had tackled Officer B and was on top of Officer B. Officer F jumped on top of Subject 1 and tried to control his hands and pull his arms from under his body. Officer F heard Officer B yell that Subject 1 had his gun. Officer F did not see Subject 1 holding a part of Officer B's gun, but he had his hands on Officer B's holster. Officer F told Subject 1 to stop resisting and to give him his hands. As Officer F tried to grab Subject 1's hands, he heard a gunshot to his left, near his left ear. Officer F did not recall telling detectives that he heard Officer B yell for someone to shoot the offender. Officer F gained control of Subject 1's hands and he was placed into custody. Subject 1's firearm was recovered, but Officer F did not observe the recovery. He did not recall observing Officers A or B strike Subject 1. Officer F's hearing in his left ear was slightly impaired for some time, but he did not seek medical treatment.

In a statement to IPRA on 04 March 2009, Officer G said the first time he observed Subject 1 was when he was on top of Officer B. Officer A was on top of

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

Subject 1, struggling with him. Officer G ran toward Subject 1 and the officers and heard Officer B yell, "He's got my gun ... shoot him!" Officer A then fired once at Subject 1. Officer G did not see Subject 1 holding Officer B's gun. Officer G saw an officer recover a weapon from the street during the incident. After the incident, Officer A told Officer G that Subject 1 had Officer B's gun, and he shot Subject 1 for his and Officer B's safety. Officer G said he did not recall that Subject 1 resisted being handcuffed after he was shot, and he did not observe any officer strike Subject 1 after he was shot.

In a statement to IPRA on 10 March 2009, Officer H said he saw Subject 1 wrestling with Officer B while Officer A was starting to assist Officer B. Subject 1's hands were on Officer B, and Officer B was struggling with his hands with Subject 1. Officer B yelled, "Help, he's got my gun. Shoot him!" Subject 1's hands were in Officer B's waist area. Officer A shot Subject 1. Officer H said it was possible he told detectives that he observed Subject 1's hands on Officer B's gun, but he did not recall providing that information. Officer H estimated that the part of the incident he observed lasted less than 10 seconds. He assisted in handcuffing Subject 1. He did not observe any officer strike Subject 1. Officer H saw a handgun on the street, closer to the east curb, after the shooting. Officer B told him that Subject 1 had thrown the handgun.

Subject 1 was charged with felony possession/use of a firearm, aggravated UUW, aggravated battery and disarming of a police officer and resisting or obstructing an officer. He was found not guilty in a Criminal Court trial on 24 March 2009.

In his **Complaint at Law** in U.S. District Court, Subject 1 alleged that Officers A, B, and F physically maltreated him before and after Officer A shot him. Subject 1 denied that he was armed or attacked or attempted to disarm Officer B.

At the trial for the federal lawsuit, the **jury found in favor** of the city of Chicago and the officers and against Subject 1. Photographs of Subject 1's weapon [marked on the barrel with the ISP case number, C07-32760] obtained by the city's Department of Law while the lawsuit was pending, also depict 15 rounds of ammunition.

An **Original Case Incident Report**, indicated that on 12 April 2012, Subject 1 was a passenger in a Jeep Grand Cherokee at 115th and Stewart when a car drove up on the Jeep's passenger side and a black male in the car shot at it. Subject 1 was struck several times on the right side of his body and was pronounced dead at Roseland Hospital. Two other males in the Jeep were wounded.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order 03-02-03 (formerly G02-08-03), Section II, A:

A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or;
2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involves 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.

Officers A and C stated that they observed Subject 1 armed with a gun either after he fled from his car or at the time Subject 1 encountered Officer B on Yale. Officers B and F said they heard radio reports (car-to-car) that Subject 1 was armed. Witness 1 saw an officer pick up a gun from across the street following the incident, and Witness 3 heard an officer say that he found a gun. Officers D and H saw a handgun on the street after the incident. DNA from a broad group of persons, from which Subject 1 could not be excluded, was on swabs from the Glock pistol that was recovered on the scene. Officers A and B stated that they observed Subject 1 throw a weapon before attacking Officer B. Despite Subject 1 asserting in his lawsuit that he was not armed, the preponderance of the evidence indicates that he was armed at the time the incident began and when he encountered Officer B. Officer B was justified in displaying his weapon when he encountered Subject 1.

Officer B related that Subject 1 attempted to disarm him during the struggle. Officer B suffered minor injuries, and his pants had marks on them apparently from the struggle. Officer A stated that Subject 1 had his hands on Officer B's weapon during the struggle. Officer D's accounts were inconsistent on whether he saw Subject 1 holding Officer B's weapon. Officer H said he saw Subject 1's hands at Officer B's waist area. Officer F related that Subject 1's

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1007557, U# 07-22

hands were on Officer B's holster. Officer B said he announced that Subject 1 had his gun and that Officer A should shoot him. Officers A, C, D, E, F, G and H said they heard Officer B state that he [Subject 1] had his [Officer B's] gun. The ISP forensic scientist said that the largest amount of DNA discovered on Officer B's weapon was from Subject 1. The preponderance of the evidence indicates that Subject 1 held Officer B's pistol. When Officer A fired at Subject 1, he reasonably believed that he was preventing Subject 1 from arming himself with Officer B's weapon and was therefore preventing death or great bodily harm to himself, Officer B or the other officer(s) on the scene in conformance with the General Order.

The officers' accounts are credible partly because the civilian witnesses' descriptions of the incident support the officers' contention that Subject 1 threw the gun across the street before becoming involved in the struggle with Officer B. The officers' accounts are credible also because of the discovery of Subject 1's DNA on Officer B's gun.

Regarding the treatment of Subject 1 before and after he was shot and while the officers were attempting to handcuff him, Officer B said he punched and used knee strikes on Subject 1, and Officer A reported that he kicked Subject 1's face during the struggle, with no effect. The officers reported their use of force shortly after the incident. Based on the officers' descriptions of Subject 1's actions, he was an assailant. The officers' physical measures against him were reasonable under the Use of Force model.