

INDEPENDENT POLICE REVIEW AUTHORITY
PUBLIC REPORT OF INVESTIGATION

INVESTIGATION

NUMBER: LOG# 1004332;U# 07-07

OFFICER(S)

INVOLVED: “Officer A” (Chicago Police Officer); Male/Hispanic; 29 years old; On Duty; In Uniform; Year of Appointment – 2003

OFFICER

INJURIES: Contusions, bruises and swelling to ankles; treated and released from a hospital

SUBJECT(S)

INVOLVED: “Subject 1”; Male/Hispanic; 27 years old

SUBJECT

INJURIES: (Deceased) Multiple gunshot wounds

INITIAL

INCIDENT: Traffic stop

DATE/TIME

OF INCIDENT: 23 Mar 07, 1741 hours

LOCATION:

1218 N. Harding – alley
Beat 2535

SUMMARY OF INCIDENT:

On 23 Mar 07 Officer A and Officer B were assigned to a marked squad car, Traffic Enforcement using the LIDAR detection system. Officer B was driving and using the LIDAR. Officer A was the passenger. The officers were at the intersection of Wabansia and Kostner parked northbound on Kostner when a red car sped southbound on Kostner passing cars and failing to stop at the stop sign. The officers activated the emergency equipment and made a three-point turn to follow the red car. The officers lost sight of the car while making the turn and sent out a flash message over the PCAD System.

The officers observed the red car in the north-south alley between Harding and Pulaski and again activated their emergency equipment and went south on Pulaski. As the officers drove south on Pulaski, the subject, now known as Subject 1, was exiting onto Pulaski from an east-west "t" alley that runs parallel to and north of Division.¹ When Subject 1 apparently observed the squad car, he reversed his car and drove west in the alley then continued in reverse north into the north-south alley between Pulaski and Harding. The officers followed Subject 1's vehicle and stopped their squad car in front of the vehicle in a southwest position. The squad car was parked approximately three feet from the Subject 1's vehicle. Both officers exited the vehicle. Officer A approached the driver's side and Officer B the passenger side. Both officers gave verbal commands, instructing Subject 1 to turn his vehicle off and put his hands where they could be seen.

As Officer A reached the driver's side of the vehicle, Subject 1 turned the steering wheel to the right and accelerated the engine. The vehicle, already in reverse, ran over Officer A's left foot, pinning him against a metal pole with the bumper of the vehicle against Officer A's left leg. Both officers repeatedly yelled at Subject 1 to stop. Officer A, in fear of receiving further injury, as well as fearing for his life, fired his weapon several times at Subject 1. Officer A was able to extract himself from this position once Subject 1's vehicle rolled back, stopping against the garbage cans.

Officer B radioed in a call of shots fired. Officer A was taken to a hospital and was treated and released. Subject 1 died on the scene.

¹ It was originally thought that Subject 1 held two other aliases; it was later learned that his name was [Subject 1].

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Witness 1 related to the Roundtable panel an account that was consistent with the Summary of Incident. Witness 1 stated he went on the roof at the back of his apartment to smoke a cigarette. The roof is over the first floor and is like a platform. It allowed Witness 1 a clear view of the alley between Pulaski and Harding. Witness 1 observed a red car facing southbound, stopped in the alley with a marked squad car facing northbound in front of the red car. Witness 1 observed two male officers exit the squad car, with one officer walking towards the driver's side of the red car and the other officer walking towards the passenger side of the red car. The driver of the red car reversed, pinning one of the officer's against the rear yard gate and garbage cans. The officers were yelling at the driver to stop. Witness 1 stated he thought the driver of the red car was deaf because the officer's were yelling over and over again for the driver to stop but the driver did not. The officer that was pinned by the vehicle shot the driver of the vehicle. Witness 1 thought the officer was afraid for his life because the driver would not stop the car.²

Officer B related to the Roundtable panel an account that was consistent with the Summary of Incident. Officer B stated that they stopped the squad car approximately three feet from Subject 1's car. When Subject 1 accelerated the car in reverse he pinned Officer A against a pole and garbage cans. Officer B continued yelling at Subject 1 to

² Attempts to obtain Witness 1's handwritten statement that he provided to an Assistant State's Attorney were met with negative results. The State's Attorney's Office was unable to locate the statement.

INVESTIGATION (Continued):

stop when he heard the engine rev and continue in reverse. Officer B thought Subject 1 was trying to kill Officer A.

Officer A related to the Roundtable panel an account that was consistent with the Summary of Incident. Officer A stated that Subject 1's car ran over his left foot and right leg, twisting his ankles and pinning him against a metal pole and garbage cans. Officer A yelled for Subject 1 to stop and after Subject 1 again revved his engine and reversed, Officer A fired his weapon in order to save his own life.

In a statement to the IPRA on 19 Jun 08 the Involved Member, Officer A provided an account of the incident that is consistent with the Summary of Incident, related Department Reports and the account he provided to the Roundtable Panel. Officer A stated that when Subject 1 reversed the vehicle, he was pinned against a metal pole, garbage cans and a garage. Officer A stated he gave Subject 1 several verbal commands to stop and exit his vehicle, all of which were ignored by Subject 1 who gave no response to Officer A's commands. Officer A fired eight times at Subject 1 after Subject 1 ignored his commands to stop and Officer A was in fear for his life. Subject 1's vehicle was not moved after Officer A fired at him.

Medical records for Officer A, obtained through the Chicago Police Department, Medical Records Section, indicate Officer A was initially treated for a twisted right ankle, a medial miniscal tear in the right knee and a contusion on his left foot. Officer A also received physical therapy due to post traumatic arthritis in his right ankle and the torn medial miniscus in his right knee. Officer A was prescribed orthotics for his feet

INVESTIGATION (Continued):

and continued physical therapy for approximately six months after the incident. Officer A was given permission by his doctor to return to duty in September 2007.

In a statement to the IPRA on 20 Jun 08 the Involved Member, Officer B provided an account of the incident that is consistent with the Summary of Incident, related Department Reports and the account he provided to the Roundtable Panel. Officer B stated that upon observing Subject 1's vehicle in the alley they approached in the squad car and observed Subject 1 put his vehicle in reverse, driving north in the alley, then stopping. Approximately three feet from Subject 1's vehicle, both officers exited the squad car and approached Subject 1, announcing their office and directing Subject 1 to turn off his vehicle. As Officer A closed in on Subject 1's car door, Subject 1 hit his accelerator, causing the car to go in reverse. Officer A was pinned by the front end of Subject 1's vehicle against a pole. Officer B yelled for Subject 1 to stop but heard Subject 1's engine accelerate again. Officer B felt that Subject 1 was trying to kill Officer A. At that moment, Officer A fired his weapon at Subject 1, who was inside of the vehicle.

The report from an Assistant Deputy Superintendent included an account of the incident that is consistent with the Summary of Incident. In addition, the report indicated that upon arrival, the ADS observed the subject's vehicle still running with Subject 1 in the driver's seat.

A canvass was conducted however, no other witnesses were located.

INVESTIGATION (Continued):

The Ambulance Report for Officer A indicates upon arrival of paramedics Officer A was suffering from right and left foot pain and had been struck by a motor vehicle.

The Tactical Response Reports (“TRR”) from the involved officers indicate that Officer A fired his weapon (7) seven times.³ Officer B did not fire his weapon.

The Case Supplementary Report(s) include accounts of the incident that are consistent with the Summary of Incident, accounts provided at the Roundtable and accounts provided to the reporting detectives.

The Office of Emergency Management Communication (“OEMC”) Event Query related Event Query chronology provides information consistent with the Summary of Incident. The Event Query further indicated officers called in shots fired by the police with one subject hit and requested EMS services; (2) two 911 callers called and stated they heard shots fired behind the Amoco gas station. Attempts to contact the 911 callers at the phone numbers provided were met with negative results.

The Evidence Technician Photographs and Videotape depicts the location of the incident; Subject 1’s vehicle; Officer A’s weapon; recovered evidence and injuries sustained by Subject 1; Officer A; Officer A’s clothing; and Officer A’s feet.

A report from the Illinois State Police Division of Forensic Services (“ISP”) dated 04 Apr 07, reflects that of the fired evidence recovered, six (6) fired bullets were fired

³ Although the TRR Report for Officer A indicated he fired (7) seven times, the recovered evidence, Department reports and ISP evidence testing indicated he fired (8) eight times. The number of unfired bullets (8) in Officer A’s weapon at the time it was recovered also indicated he fired (8) eight times. Officer A’s weapon had a capacity of (16) sixteen rounds, (15) fifteen rounds in the magazine and (1) one in the chamber.

INVESTIGATION (Continued):

from Officer A's weapon; and two (2) fired bullet jacket fragments were unsuitable for comparison as the caliber and rifling characteristics could not be determined. The ISP report also indicates that Officer A's weapon was examined, found to be in firing condition and test fired.

An ISP report dated 11 Apr 07 reflects that .3 grams of powder that was submitted was examined and found to be cocaine.

An ISP report dated 29 Oct 08 reflects that the results of a glass bottle submitted for latent impressions revealed at least two latent impressions suitable for comparison. Comparison revealed that one of the suitable latent impressions was matched to Subject 1.

The Report of Postmortem Examination of Subject 1 indicates that there was an atypical entry wound to the left side of the head involving the ear with a deformed partially copper jacketed lead bullet recovered from beneath the right of the head; an atypical penetrating gunshot wound to the left chest with a slightly deformed medium caliber partially copper jacketed lead bullet recovered; an atypical penetrating gunshot wound to the lateral left shoulder with a medium caliber partially copper jacketed lead bullet recovered; an atypical penetrating gunshot wound to the posterior left upper arm with a deformed partially copper jacketed lead bullet recovered; a graze wound to the left upper back; a graze wound to the medial aspect of the left upper arm; a graze wound to the anterior aspect of the left forearm; and superficial bruises of the extremities. The gunshot wounds caused Subject 1's death. The manner of death was homicide.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A was in compliance with Department policy and state statutes. According to the Chicago Police Department's General Order No. 02-08-03, III. *Department Policy*:

- A. "a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:
 - 1. to prevent death or great bodily harm to the sworn member or to another person, or;
 - 2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involved the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay."

Officer A's actions were in accordance with the requirements of the Department's deadly force policy. Subject 1 observed a marked police car with lights flashing and continued trying to evade police by means of his vehicle. Subject 1 then used deadly force with his vehicle when he struck Officer A's foot, causing it to become lodged between Subject 1's vehicle and a post. Officer A yelled numerous times for Subject 1 to stop but Subject 1 continued moving the vehicle in reverse.

CONCLUSION AND FINDING (Continued):

When Officer A fired, he reasonably believed that he was in danger of death or great bodily harm from Subject 1 and his vehicle. Officer A was stuck between Subject 1's car and a metal post and he was in danger of great bodily harm.