

INDEPENDENT POLICE REVIEW AUTHORITY
PUBLIC REPORT OF INVESTIGATION

INVESTIGATION

NUMBER: Log#1012985; U #07-38

**OFFICER(S)
INVOLVED:**

“Officer A” (Chicago Police Department Officer) —
Male/Black; 56 years old; On-duty; In uniform; Year of
Appointment — 1994

**OFFICER
INJURIES:**

None reported

**SUBJECT(S)
INVOLVED:**

“Subject 1” — Male/Black; 21 years old

**SUBJECT
INJURIES:**

Through-and-through gunshot wound to lower left leg

**INITIAL
INCIDENT:**

Officers observe subject in vehicle that was illegally parked

DATE/ TIME:

30 December 07, 0417 hours

LOCATION:

441 E. 29th Place
Beat 2122

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SUMMARY OF INCIDENT:

On 30 December 2007, at approximately 0417 hours, Officers A and B were in uniform and working Beat 2122. The officers were on routine patrol when they observed a black Chevrolet Cavalier, which was parked facing east in a no-parking zone at approximately 441 E. 29th Place. The location is on the grounds of Michael Reese Hospital. Subject 1 was sitting in the driver's seat of the auto with the engine running. He was apparently asleep or passed out. Officer A parked the squad car behind the Cavalier and ran the license plate, which came back to an unrelated individual at an address in Riverdale, IL.

Both officers exited the squad car, with Officer B going to the driver's side of the Cavalier and Officer A to the passenger side. Officer B looked into the car using his flashlight and observed Subject 1 nodding as if asleep, holding a cell phone in his left hand. Officer B observed a semi-automatic pistol on the rear passenger side floor of the Cavalier. Officer B alerted Officer A about the gun, but did not say where in the car the gun was located. Officer A then moved to the front windshield area of the Cavalier and asked Officer B if the car was in gear. Officer B could not tell if the car was or was not in gear.

Officer B then knocked on the driver's side window, identified himself as a police officer and asked Subject 1 to show his hands. Subject 1 woke up and used his left hand to place the cell phone on his lap or the seat and then reached to his right with his right hand as if to pick up an object in the front seat area. At the same time, Subject 1 accelerated the car and drove over the south curb in Officer A's direction. Officer A, who believed Subject 1 was reaching for a gun, jumped back and fired two shots in Subject 1's direction. Subject 1 drove east on 29th Place and was observed going south on Cottage Grove. A flash message was radioed. Subject 1 apparently drove south on Lake Shore Drive, exited at Oakwood and crashed the car into the entrance gate of the Chicago Park District facility on the west side of the exit ramp. Responding officers located the vehicle and followed a blood trail from the car to the alley at the rear of 867 E. Pershing where Subject 1 was arrested. Subject 1, who suffered a gunshot wound to the left calf, was treated at Michael Reese Hospital and then transferred to Illinois Masonic Hospital. Two semi-automatic pistols were recovered from the front passenger side floor of the Cavalier. One pistol was not registered and the other pistol had the serial numbers defaced.

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Officer B related to the Roundtable panel that he and Officer A were driving south on Vernon when they observed the Cavalier parked on 29th Place. Subject 1 was the only occupant of the Cavalier. Officer A parked behind the Cavalier and ran the license plate. Officer B exited the squad car before Officer A and went to the driver's side of the Cavalier. Officer B shined his flashlight into the back seat area and observed a pistol on the passenger-side rear floor. As Officer A went to the passenger side, Officer B told Officer A about the gun in the Cavalier. Officer A asked Officer B if the car was in gear but Officer B could not determine that. Officer A stepped forward to look into the Cavalier and signaled for Officer B to knock on the window. Officer B knocked on the window, announced his office and told Subject 1 to show his hands. Subject 1 woke up, dropped a cell phone, reached forward and down with his right hand and accelerated the Cavalier forward and up over the curb trying to strike Officer A. Officer B heard shots being fired. Subject 1 drove east on 29th Place and south on Cottage Grove. The officers went to their car and radioed for a stop on the Cavalier. Officer B did not see a gun in the front passenger area of the Cavalier when he looked into the vehicle with his flashlight.

Officer A related to the Roundtable panel that he observed the Cavalier parked in the no-parking zone with the engine running. Subject 1 appeared to be sleeping in the driver's seat. Officer A parked the squad car behind the Cavalier, aimed the spotlight on the rear view mirror and ran the license plate. Officer B exited the squad car and went to the driver's side of the Cavalier while Officer A went to the passenger side. Officer B

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INVESTIGATION (Continued):

looked into the Cavalier and told Officer A about the gun inside the car. Officer B did not tell him where the gun was located in the car. Officer A nodded to Officer B to acknowledge that he knew a gun was in the car. Officer A asked Officer B if he could tell if the car was in gear, but he could not. Officer A moved forward to look for himself. Officer B announced his office several times and told Subject 1 to show his hands. Officer A observed a cell phone in Subject 1's left hand. Officer B again announced his office. Subject 1 reached forward with his right hand. Officer A feared that Subject 1 was reaching for the gun. At the same time, Subject 1 accelerated the Cavalier forward, turned the vehicle toward Officer A and drove onto the south curb. Officer A moved to the left and toward the rear of the Cavalier and fired two shots in the direction of where Subject 1's right hand was moving.

Officer A said that when he fired, he was concerned that the Cavalier was going to hit him and further that Subject 1 was reaching for the gun in the car. The Cavalier did not hit him. Subject 1 drove east on 29th Place and south on Cottage Grove. Officer A returned to the squad car and radioed in the description of the Cavalier and where it traveled. Officer A did not use a flashlight to look into the Cavalier. Officer A drew his weapon when Officer B warned him about the gun in the Cavalier. Officer A did not see the gun in the car before the shooting.

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INVESTIGATION (Continued):

Officer C related to the Roundtable panel that she and her partner on Beat 2123 heard the radio report about the Cavalier driving away from a shooting. Beat 2113 located the car where it crashed into a gate at Oakwood. Officer C and other officers followed a trail of blood to the alley behind 867 E. Pershing, finding Subject 1 who was wounded in his left leg. Subject 1 was arrested and officers called for an ambulance. Officer C did not hear Subject 1 say anything about the incident.

Officer D related to the Roundtable panel that he examined the Cavalier while it was still located at the Oakwood exit from Lake Shore Drive. Officer D stated that the Cavalier had heavy front end damage. The left front tire was gone, the driver's door was open, the car was in reverse gear, the two front airbags were deflated, the hazard lights were on and there was broken glass inside. There was an apparent bullet hole in the middle of the front passenger door just below the door glass frame. Another apparent bullet hole was in the inside of the driver's door with a possible exit at the bottom outside area of the door. Two semi-automatic pistols were recovered from the front passenger seat floor.

Forensic investigators displayed to the Roundtable panel the two pistols recovered from the Cavalier.

INVESTIGATION (Continued):

Officer E told the Roundtable panel that he went to Michael Reese Hospital, advised Subject 1 of his Miranda rights and interviewed him. Subject 1 said that he was asleep in the car when the police officer woke him up. Subject 1 was scared, drove off and was shot. He crashed the Cavalier and was arrested. Officer E asked Subject 1 who owned the Cavalier. Subject 1 then requested a lawyer and the interview was terminated.

Records from Michael Reese Hospital indicate that Subject 1 arrived at the hospital at 0500 hours and was treated for a gunshot wound to the left leg. Subject 1 told medical personnel that he was asleep in a car and awoke to a tap on the window. He was shot by Chicago police. Subject 1 was transferred to Illinois Masonic Hospital.

Records from Illinois Masonic Hospital indicate that Subject 1's wound was in his left calf.

Subject 1 refused to be interviewed by IPRA.

The Evidence Technician photographs depict the two scenes, including tire tracks in the snow on the south curb at 441 E. 29th Pl.; fired evidence; the blood trail; and Subject 1 while he was being treated.

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INVESTIGATION (Continued):

A report from the Illinois State Police (“ISP”), Division of Forensic Services, dated 11 Jan 08, indicates that Officer A’s 9mm pistol was found to be in firing condition and test fired. Two recovered casings and one bullet were found to have been fired from Officer A’s weapon.

An ISP report dated 06 Aug 08 indicates that the two pistols recovered from the Cavalier were found to be in firing condition and test fired. One of the pistols, a 9mm Sturm Ruger, had an obliterated serial number. The second pistol, a 9mm Astra, had a serial number.

An ISP report dated 01 March 08 indicates that the results of a gunshot residue test for Subject 1 were that Subject 1 may not have discharged a firearm with either hand.

An ISP report dated 24 July 08 indicates that no latent impressions suitable for comparison were found on the two pistols recovered from the Cavalier.

An ISP report dated 09 Apr 09 indicates that a DNA profile identified on blood swabs from the sidewalk and from the front driver’s side floor of the Cavalier matched Subject 1’s DNA profile.

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INVESTIGATION (Continued):

A trace summary report from the Bureau of Alcohol, Tobacco, Firearms and Explosives indicates that the 9mm Astra recovered from the Cavalier had been purchased by an unrelated individual in 1995 from a dealer in Franklin Park, IL.

Subject 1's arrest report indicates that he was charged with aggravated unlawful use of a weapon and aggravated assault of a police officer. Court records indicate that Subject 1 is now charged with attempted first degree murder, possession of a firearm with a defaced serial number and aggravated UUW. His court case is still pending.

The detectives' Supplementary Report indicates that the Astra pistol was clear, not registered. In addition, the Supplementary Report includes accounts of the incident from Officers A and B that are consistent with their Roundtable accounts.

The summary of the transmissions from the disk provided by the Office of Emergency Management and Communications (OEMC) indicates that Officer A reported his weapon discharge immediately. One member of Beat 2122 told the dispatcher that a Chevrolet had just taken off east on 29th at Vernon and that there was a gun in the back seat. A male voice says, "He almost hit me. I squeezed off two rounds at him so I'm going to need a sergeant." Responding units observed the blood trail and took Subject 1 into custody.

INVESTIGATION (Continued):

In his statement to the Reporting Investigator (R/I) on 30 April 08, Officer B provided an account of the incident that is consistent with his Roundtable account. In addition, Officer B said that before Subject 1 reached down, he raised his hands halfway up. He then reached down with his right hand and at the same time tried to drive off. That is when Officer A fired two rounds. The Cavalier drove over the curb going toward Officer A, who moved out of the way. The car continued going east and then turned south on Cottage Grove. Officer A reported the incident on his radio. Officer B and Officer A heard over the radio that a car fitting the description of the Cavalier had crashed at Lake Shore Drive and Oakwood. Officer B and Officer A drove to Oakwood and identified the Cavalier as the vehicle involved in the incident. Officer B told responding officers on Lake Park that there was blood at the crash scene and there was probably a trail of blood. Officer B and Officer A returned to the scene of the shooting to wait for a supervisor.

Officer B also stated that Subject 1's and Officer A's actions were "simultaneous." Subject 1 reached down, his hand held the steering wheel, the car moved and Officer A fired. Officer A told Officer B that he fired because he was in fear, did not know where the gun was in the car and thought Subject 1 was reaching for the gun. Officer A did not say he fired because he thought he was going to be struck by the car.

In his statement to the R/I on 30 April 2008, Officer A provided an account of the incident that is consistent with his Roundtable account. In addition, Officer A related that

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INVESTIGATION (Continued):

as he was positioning himself in front of the Cavalier in order to see the driver (Subject 1), Officer B alerted him that there was a gun in plain view in the vehicle. Officer A told Officer B to get Subject 1 out of the car. Officer B approached the car, announced his office and instructed Subject 1 to show his hands. Subject 1 moved. Officer A told Officer B to watch Subject 1's hands. Subject 1 reached forward, put the car in gear and drove onto the curb attempting to hit him (Officer A). As Officer A tried to get out of the way of the car, Subject 1 was still bent over reaching forward.

Officer A stated that even though Officer B had alerted him about the gun, Officer B had not said where it was located. Officer A stated he was in fear for his life and his partner's life when he fired the two shots because he believed that Subject 1 could have been reaching for the gun. When Officer A fired, he was aiming at Subject 1. The Cavalier was about one foot from Officer A when Subject 1 drove over the curb, but the auto did not strike him. Officer A fired at Subject 1 because Subject 1 was possibly reaching for the gun. Officer A did not fire at Subject 1 to avoid being struck by the car. Officer A did not see the Cavalier crash.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A was in compliance with Chicago Police Department policy and Illinois State statutes. 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 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."

Officer B had alerted Officer A that a gun was in Subject 1's car, but had not specified where the gun was located. Officer B identified himself and ordered Subject 1 to show his hands. The officers were consistent in describing Subject 1's reaction to this order, which was to disobey it by reaching down to his right and driving the car over the curb in Officer A's direction. When he fired, Officer A had been told there was a gun in

CONCLUSION AND FINDING (Continued):

the car, saw Subject 1 reaching down and to the right, and Subject 1 had already driven over the curb in Officer A's direction. Therefore, Officer A reasonably believed that Subject 1 was reaching for the gun to continue his assault. Two guns were recovered from the car. Therefore, based on the totality of the circumstances, Officer A was reasonably in fear for his life and that of Officer B and fired at Subject 1 to prevent death or great bodily harm.