

INDEPENDENT POLICE REVIEW AUTHORITY
PUBLIC REPORT OF INVESTIGATION

INVESTIGATION

NUMBER: Log #1008171; U #07-25

OFFICER(S)

INVOLVED: “Officer A” (Chicago Police Officer) – Male/White; 32 years old; On Duty; In Uniform; Year of Appointment – 1998

OFFICER

INJURIES: None Reported

SUBJECT(S)

INVOLVED: “Subject 1” – Male/Black; 18 years old

SUBJECT

INJURIES: “Subject 1” – (1) gunshot wound of the back (fatal); subarachnoid hemorrhage at the base of the brain; cerebral edema; multiple abrasions and lacerations on the prominent portions of the face

INITIAL

INCIDENT: Officer’s observation

DATE/TIME: 6 August 2007, 1944 Hours

LOCATION: 1129 S. Mozart Street
Beat 1135

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION:

In his To-From-Subject Report, the Chicago Police Department Assistant Deputy Superintendent (“ADS”) indicated that he arrived on the scene of the incident at 2032 hours on 06 August 2007. The ADS’ report contained the following description of the incident: Officers A, B, C and D, all assigned to the Special Operations Section at the time of the incident, were traveling westbound on Roosevelt Road in two vehicles when they observed a male, black individual (now known to be Subject 1) standing with other male, black individuals near Roosevelt and Francisco Avenue. Subject 1 was tugging at or reaching toward his waistband in such a manner as to cause the officers to believe he was armed. As the officers initiated an investigative stop, Subject 1 fled. Officer A exited his vehicle and ran after Subject 1, who ran north and east through several lots toward California Avenue. Officers C and D each drove down California to try to stop Subject 1. Officer B got out of Officer D’s squad car on California and saw Subject 1 holding a handgun and heading east. Subject 1 reversed his direction when Officer B got out of the car and ran west, crossing the path of Officer A. Subject 1 had the gun in his right hand¹ and Officer A told him to drop it. Subject 1 failed to do so and pointed the gun at Officer A. Officer A fired his gun once, striking Subject 1 on the rear of the left shoulder. Subject 1’s weapon was recovered by the crime lab approximately two feet from his body. Area Four Detectives conducted an extensive canvass of the area, and several citizens claimed to be witnesses, but all refused to be transported to the Area to give statements. They insisted that they would go to the Area on their own, but none of them did. (Att. 4)

¹ Subject 1’s mother confirmed that Subject 1 was right-handed. (Att. 121)

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION: (Continued)

In an interview with OPS² on 08 August 2007, Witness 1 related that she was on her back porch at XXXX S. Mozart Street and saw Subject 1 running outside the fence on the south side of her building. A white, uniformed police officer was chasing him. Subject 1 ran northbound through the alley behind Witness 1's building and turned to run westbound toward Mozart. The police officer stood in the alley and shot Subject 1 once. Witness 1 did not hear the police officer say anything before he shot Subject 1. Subject 1 was facing away from the police officer, toward Mozart, when he was shot. He never turned toward the police officer. Witness 1 did not observe Subject 1 with a gun and did not see a weapon on the ground. (Att. 16)

In an interview with OPS on 08 August 2007, Witness 2, Witness 1's daughter and Subject 1's god-sister, stated she was in her living room when she saw Subject 1 running through the vacant lot next to her building with a police officer chasing him. Witness 2 went out to her porch and saw Subject 1 run into another lot across the alley. He then ran to the lot on the other (north) side of the apartment building. The police officer, who was standing near the garbage cans, shot Subject 1 in the back. Witness 2 did not observe anything in Subject 1's hands as he was running. (Att. 17)

² Throughout this report, "OPS" is used for any interviews that were conducted prior to November 2007, when the "Office of Professional Standards" became the "Independent Police Review Authority", and "IPRA" is used for any interviews conducted after that date.

INVESTIGATION: (Continued)

In an interview with OPS on 08 August 2007, Witness 3, also Witness 1's daughter and Subject 1's god-sister, related that she also was in her living room when Subject 1 ran through the lot next to her apartment. A police officer was chasing him. Witness 3 went to the porch and saw Subject 1 run into the field across the alley from their apartment. There was a police car on California so Subject 1 ran back through the alley to a field on the other (north) side of the apartment building. The police officer stood in the alley near the start of the field and shot Subject 1 in the back. Witness 3 never saw a gun in Subject 1's hand or on the ground near him. (Att. 18)

In an interview with OPS on 08 August 2007, Witness 4, Witness 1's god-daughter, stated that she was on Witness 1's back porch when she observed Subject 1 running through the vacant lot next to the apartment building toward California. A police officer was running after Subject 1 and Subject 1 doubled back to the alley. The police officer shot Subject 1. Witness 4 did not hear the police officer say "freeze" before he shot Subject 1. Subject 1 immediately fell to the ground and the police handcuffed him. Witness 4 did not see anything in Subject 1's hand and she did not look to see if there was anything on the ground after he had fallen. (Att. 19)

In an interview with OPS on 16 August 2007, Witness 5 related that she had known Subject 1 for approximately nine and a half years and saw him at a nearby liquor store about

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1008171; U #07-25

INVESTIGATION: (Continued)

fifteen minutes before the shooting. Witness 5 also knew Subject 1 by a particular nickname. Witness 5 then went to Witness 1's apartment and sat in the living room with her back to the window. Someone said he or she saw Subject 1 running through the vacant lot next to the apartment (Witness 5 did not recall who made the statement). Witness 5 saw that Subject 1's hands were in fists, and his arms were pumping as he ran. Witness 5 also saw a police officer chasing Subject 1. Subject 1 ran toward the rear of the apartment, so Witness 5 went to the back porch to see what was happening. Subject 1 ran across the alley and through the lot across from Witnesses 1, 2, and 3's apartment. Witness 5 saw that a police car was stopped on California near the lot. Subject 1 stopped and put his hands in the air. He then turned and ran back toward the alley. His arms were still in the air, but he was starting to make fists and his arms were pumping again. When Subject 1 crossed the alley and stepped into another lot (north of the apartment building), the police officer fired one shot, striking Subject 1 in the back near the neck. The police officer was standing near the garbage cans in the alley at this point. Witness 5 never heard the police officer say anything before firing his gun. Subject 1 fell to the ground and the officers handcuffed him. Witness 5 never saw Subject 1 with a gun during the incident and she did not see a gun on the ground after he fell. Witness 5 stated that she knew Subject 1 to be a member of the Vice Lord street gang and stated that he did not usually carry a gun unless he was "at war" with other people from the neighborhood. Witness 5 called "911" and ran to the nearby fire station to get an ambulance. Before she left the area, Witness 5 let an unknown woman at the scene borrow her phone and later realized that the

INVESTIGATION: (Continued)

woman had taken a photograph of the scene. There were several other people around the woman, and Witness 5 did not know who else may have used the phone. When Witness 5 returned home she received phone calls from a police sergeant and a police officer. Both asked her to come down to the station, but Witness 5 refused and told them not to call her again because she did not have any information. (Att. 31)

In an interview with OPS on 01 September 2007, Witness 6 related that on the date of the incident he was living with a couple (one of whom is now known to be Witness 7) at Roosevelt and Francisco. When he returned home that afternoon, he knocked on the window and Witness 7 let him in. Once inside, two male, black individuals ran down the stairs. One of the males had a gun in his hand. Witness 6 described the gun as an “automatic” pistol with black on the top and bottom and chrome on the sides. The male with the gun made a comment to Witness 6 to the effect that Witness 6 was lucky he did not “pop his ass.” A few hours later, when Witness 6 was at the car wash at Sacramento and Roosevelt, people were saying the police had shot someone. A few days later, he saw a picture of Subject 1 in the paper and recognized him as the individual with the gun at Witness 7’s house. Witness 7 later confirmed to Witness 6 that Subject 1 was the individual with the gun. (Att. 41)

INVESTIGATION: (Continued)

In an interview with OPS on 09 October 2007, Witness 8³ stated he was sitting on a porch (XXXX S. Mozart) with his cousins Witness 9 and Witness 10 when he saw Subject 1 running eastward from the Francisco alley. He was being chased by a police officer. Subject 1 ran from the lot on the south side of the porch to the lot on the north side. He had just entered the north lot when Witness 8 saw the police officer shoot him in the back. Subject 1 fell to the ground, and the police handcuffed him. Witness 8 called for an ambulance. Witness 8 stated that Subject 1 did not have a gun and did not point a gun at any officer. Witness 8 stated that Subject 1 was well known in the area as a dancer. (Att. 42)

In an interview with IPRA on 10 July 2008, Witness 7 related that she lived at XXXX S. Francisco from June 2007 until January or February 2008. During the time she lived there, she came to know Subject 1 by face but did not know him well. Subject 1 would occasionally hang out in the hallway of Witness 7's building with girls or while smoking. Witness 7 kept the door to her apartment closed but would find cigar wrappers on the floor in the hallway. Witness 7 never saw Subject 1 or anyone else in the building with a gun. She believed that they may not have shown her a gun because they knew she would call the police. Witness 6 rented a room from Witness 7 for a while. He once told her that he saw some boys in the hallway, but he did not tell her he saw a gun. Witness 7 was home at the time of the shooting and heard the shot, but she did not go outside. She later heard a rumor that Subject 1 had just

³ Witness 8 was being interviewed by OPS regarding a different incident when he related that he was a witness to this incident.

INVESTIGATION: (Continued)

been released from jail one week before the shooting. She last saw him several days before the shooting. (Att. 68)

After a meeting with Subject 1's family on 23 June 2008, the family agreed to ask their attorney to provide IPRA with names of and, to the extent possible, access to any known witnesses. The attorney identified several witnesses already interviewed by IPRA (Witness 1, Witness 2, Witness 3 and Witness 5) as well as two witnesses (Witness 11 and Witness 12) whom he agreed to make available to IPRA. On 11 September 2008, the attorney provided IPRA with the deposition of Witness 11. The attorney was unable to contact Witness 12 or provide her current contact information in order to make her available to IPRA. (Att. 75)

In his deposition on 27 August 2008, Witness 11 testified that he was in the alley behind a property he owns at XXXX S. California, which is approximately three or four houses north of where the shooting occurred. Witness 11 saw a male, black individual running westbound across the alley. He also saw a police officer run out of a vacant lot on the east side of the alley and shoot the individual. The individual was holding his pants with his right hand as he ran. Witness 11 did not see the individual with a gun but stated that he could not see the individual's left hand. The individual fell to the ground in a vacant lot on the west side of the alley, which Witness 11 described as having no grass, garbage or other

INVESTIGATION: (Continued)

debris in it. After the shooting, officers on the scene directed Witness 11 and other people gathering to back away so Witness 11 went and sat in his car. Two officers later approached him and asked his name and address, but Witness 11 refused to give them any information or talk to them. An officer came to his home in Oak Park later that night and tried to talk to him about the shooting, but he refused to give them a statement. Witness 11 never called the police or anyone else to tell them he was a witness to the incident. (Att. 74)

In an interview with IPRA on 26 February 2009, Witness 13 related that she was inside her apartment on the first floor (front) of XXXX S. Mozart and heard a gunshot coming from the rear of her building. Witness 13 went through Witnesses 1, 2, and 3's apartment and stood on their porch. From there, she saw Subject 1, who she knew from the neighborhood, on the ground. One officer was there at that point and he handcuffed Subject 1. After the officer bent down to handcuff Subject 1, Witness 13 saw a gun on the ground. Witness 13 did not see the officer touch the gun or put it there, but she did not see the gun before the officer bent over to handcuff Subject 1. Witness 13 stated the gun looked silver, but she could not describe it further. (Att. 92)

In an interview with IPRA on 26 February 2009, Witness 14 related that she was in her apartment on the third floor (rear) of XXXX S. Mozart and heard a gunshot. She first looked out the window facing south, then she looked out to the north. Witness 14 saw

INVESTIGATION: (Continued)

someone on the ground and called the police. She looked out the window and saw a police officer pick up the person who was on the ground. Witness 14 specifically indicated that the person was handcuffed and that the officer picked up the person by the handcuffs. Witness 14 went out to the porch and realized that the person who had been shot was Subject 1, who she knew from the neighborhood. She later heard one of the officers on the scene say something about a gun while the officers were picking up evidence, but she never saw a gun on the ground. (Att. 94)

In an interview with IPRA on 26 February 2009, Witness 15 related that he was in his apartment on the first floor (front) of XXXX S. Mozart and heard a gunshot. Witness 15 looked outside and saw two police officers standing near someone on the ground. Witness 15 went outside and saw that a person he knew from the neighborhood, by the same nickname that Witness 5 gave, was on the ground in handcuffs and that he had been shot. Witness 15 was in the same lot where that person's body was, but he never saw a gun on the ground. (Att. 96)

In an interview with IPRA on 11 March 2009, Witness 16 related that she was walking in the area and saw Subject 1, who she knew from the neighborhood, being chased by a police officer. Shortly after seeing Subject 1, Witness 16 heard a gunshot. Witness 16 went to the lot next to XXXX S. Mozart and saw Subject 1 lying facedown on the ground

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION: (Continued)

with two uniformed police officers nearby. More police officers came and told everyone to get back. Witness 16 called Subject 1's uncle to tell him about what happened. Witness 16 did not see a gun on the ground and did not see any officer touch a gun. Witness 16 was standing at the front of the lot and the officers and Subject 1 were at the back. Witness 16 and other people called for an ambulance. (Att. 106)

In an interview with IPRA on 19 March 2009, Witness 17 related that he was on the rear porch on the second floor of XXXX S. California and could see Subject 1 come out of a store at the corner of Mozart and Roosevelt. Witness 17 stated that he knew Subject 1 to be his "auntie" Witness 1's god-son. Witness 17 described Subject 1 as wearing black clothing. Subject 1 started running toward California and a male, white police officer chased Subject 1. Subject 1 was pumping his arms as he ran and had some food in his right hand that he dropped as he was running. Subject 1 did not have anything else in his hand. Subject 1 ran through the alley and turned to enter the vacant lot on the north side of XXXX S. Mozart. Subject 1 then stopped running and put his hands on his knees. The police officer approached Subject 1 so that he was only a few feet away from him and shot Subject 1 two times in the back. The officer was standing and held the gun in one hand as he shot Subject 1. Subject 1 fell to the ground and the officer's partner arrived in the squad car. Witness 17 did not see any other officers on the scene at that point. Witness 17 later saw the same officer who shot Subject 1 put a paper bag on the ground and say something about finding a gun on the scene.

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION: (Continued)

Witness 17 stated that his aunt, Witness 18, and her now-five-year-old daughter were on the porch with him at the time of this incident. (Att. 123)

A canvass of the location of incident produced no additional witnesses. Attempts to obtain information regarding additional witnesses from two reverends were unsuccessful. Attempts to locate the following potential witnesses via telephone calls, personal visits and subpoenas were unsuccessful: Witness 19⁴, Witness 20, Witness 21, Witness 22, Witness 23, Witness 24, Witness 25 and Witness 26. Attempts to contact two individuals who are possibly Witnesses 9 and 10, as mentioned in Witness 8's statement, were also unsuccessful. Attempts to contact additional people who called OEMC at the time of the incident (cell phone numbers xxx-xxx-xxxx and xxx-xxx-xxxx) were unsuccessful and cellular telephone records were not available to determine subscriber information. (Att. 22, 27, 28, 30, 33, 34, 75, 77, 79, 80, 89, 90, 98, 99, 101, 111, 112, 113, 114, 115, 116, 118, 127)

Cellular telephone records revealed that one of the callers to "911" on the night of the incident was Subject 1's uncle. Through his attorney, Subject 1's uncle related that he did not witness the incident. Attempts to contact Subject 1's uncle's son to find out if he was a witness were unsuccessful. (Att. 117)

⁴ Witness 19 was named by Witnesses 1, 2, and 3, Witness 4 and Witness 5 by first name only as being present in Witnesses 1, 2, and 3's apartment during the incident.

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION: (Continued)

An additional caller to “911” on the night of the incident (cell phone number xxx-xxx-xxxx) related that he called for an ambulance because he heard a gunshot after he saw Subject 1 being chased by the police. This caller, who refused to provide his name to IPRA, related that he was on Francisco and did not witness the shooting. Cellular telephone records later revealed that this cell phone number was registered to Witness 27. (Att. 99, 110)

Attempts to contact Witness 18 via telephone and personal visits to her residence were unsuccessful. Witness 18’s mother (who is also Witness 17’s grandmother), spoke to IPRA and related that neither she nor Witness 18 were witnesses to the incident because they were inside the apartment together at the time of the shooting. (Att. 125, 126)

The General Offense Case Report contains essentially the same information as the ADS’ report. (Att. 5)

Officer A completed a Tactical Response Report and an Officer’s Battery Report. The reports indicated that Subject 1 did not follow verbal direction, fled, had a weapon in his hand, refused to drop the weapon and pointed the weapon at Officer A. Officer A responded with verbal commands to drop the weapon and he fired his weapon in fear for his life. (Att. 6, 7)

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION: (Continued)

Evidence Technician photographs taken of the scene on 06 August 2007 depict Subject 1's body in a vacant lot with a gun lying on the ground nearby. A marker indicating the location of the spent cartridge casing is in the alley between the vacant lot on Mozart and the vacant lot on California. Photographs indicate that Subject 1 was wearing a white shirt and plaid shorts. The photographs further depict that the area of the vacant lot where Subject 1 fell to the ground is grassy and there are numerous pieces of garbage littered about the area. (Att. 45-50)

Additional Evidence Technician photographs taken of the recovered gun on 03 March 2009 reveal that the slide is silver, the frame is gray and the grips are black. (Att. 109)

Global Positioning System records for the police vehicles used by the officers involved in this incident corroborate the officers' accounts of their movements. The records indicate that Vehicle #1 drove eastbound through the alley behind Roosevelt from Mozart to California, then north on California, west on Fillmore Street and south through the alley, ending at approximately 1144 S. California. The records further indicate that Vehicle #2 drove east on Roosevelt from Francisco to California, north on California, west on Fillmore and south on Mozart, ending at approximately 1147 S. Mozart. (Att. 37)

INVESTIGATION: (Continued)

The Case Supplemental Reports document the investigation conducted by the Chicago Police Department regarding this incident. (Att. 76) Interviews of Witnesses 1, 2, and 3 by CPD detectives contain essentially the same information that was provided in interviews with OPS. Detectives interviewed Witness 19 during a canvass on the night of the incident and she gave essentially the same account that was provided by the Witnesses 1, 2, and 3. Witness 19 and Witnesses 1, 2, and 3 told the detectives that they would go to Area Four to speak at the Roundtable, but none of them arrived at the Area.

Witness 17 was interviewed during the canvass and stated that he was on the second floor porch of XXXX S. California by himself when he saw Subject 1 run through the alley and into the vacant lot. Subject 1 then turned around and Witness 17 saw a police officer and heard one gunshot. The other people who were interviewed in the second floor rear apartment of XXXX S. California, including Witness 17's mother and grandmother, stated that they were inside the apartment and did not see or hear anything. They were all alerted to the incident by Witness 17.

The detectives spoke to a male, black individual who claimed he was a retired CPD officer but refused to provide his name at the time (later discovered to be Witness 11). Witness 11 told the detectives he saw part of the incident but refused to provide a statement either at the scene or later when they went to his residence.

INVESTIGATION: (Continued)

Detectives also interviewed Witness 6, who provided the same information as he provided to OPS. Witness 6 was brought to the detectives' attention by a 015th District sergeant who reported that two of his officers were told by Witness 6 that he had information regarding the incident. Witness 6 also told the detectives that he discussed the shooting with his co-workers and said that Subject 1 may have had a gun when he was shot. His co-workers became aggressive toward him and said that Witness 6 was not from around there so he should keep his mouth shut or he would "get hurt". Witness 6 told a neighborhood preacher about the incident and the preacher told Witness 6 that he would be better off not saying anything if he had information that could get him hurt. Witness 6 was "scared and confused" about this and decided to move out of the area. He later decided to relay this information to the police because he thought he had an obligation to do so. Witness 6 described the gun to the detectives as shiny, possibly chrome on top (indicating the slide) and black on the bottom (indicating the frame).

Detectives went to Jackson, Mississippi to interview the registered owner of the handgun recovered in this incident, and to interview the owner of the pawn shop that sold the gun to its registered owner in 1997. The registered owner of the handgun told the detectives that this weapon and four other guns were taken from him in a burglary in April 2003. The registered owner of the handgun did not recognize photographs of Subject 1, his relatives or

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION: (Continued)

other people who had been arrested in the vicinity of the incident and did not know how the stolen gun got to Chicago. The owner of the pawn shop told the detectives that anyone buying a gun from his store needed to show identification from the state of Mississippi, fill out a federal form and pass a background check. There was no record of the registered owner of the handgun buying any other guns from that location and there was no indication that the store was routinely used for straw purchasing of firearms to transport them to Chicago.

The involved officers provided accounts to the detectives that are essentially the same as what they related to the Roundtable and in their statements to IPRA detailed below. (Att. 76)

Field Contact Cards indicate that Witness 6 was stopped for a narcotics investigation. Chicago Police Department officers stopped Witness 6 on 31 August 2007 at 1200 hours for a narcotics investigation. During their encounter, Witness 6 informed the officers that he had information about this officer-involved shooting. (Att. 119, 120)

None of the videos from the vicinity of the location of the incident contained any images relevant to this investigation due to the location or angle of the cameras. A recording from POD #243, located at 2900 W. Roosevelt, was obtained on 16 August 2007. A video was obtained on or about 23 August 2007 from South Park Foods at 2838 W. Roosevelt.

INVESTIGATION: (Continued)

Both this video and the POD video were too far west on Roosevelt to contain any relevant images. A video from the North Lawndale Adult Transition Center at 2839 W. Fillmore was obtained on or about 16 August 2007, but it did not provide any relevant images due to the angle of that camera and quality of the recording. A video obtained on 23 August 2007 from the Currency Exchange at 2806 W. Roosevelt did not contain any relevant images due to the camera angles, which only show the front sidewalk on Roosevelt and driveway immediately west of the building. IPRA was unable to obtain a recording from a camera at 2834 W. Roosevelt because the owner of the building was out of town at the time of the incident. Any footage from the time of the incident was erased when the owner of the building returned because the cameras were set to re-record after two days. (Att. 30, 63, 89)

Office of Emergency Management and Communications records indicate that several people called to request an ambulance because a police officer shot someone in the back. The records also indicate that the first call from a civilian (a female who identified herself by her first name only⁵) regarding the incident was at 19:44:27. The first notification from a Department member (from Unit 4411, which was Officers B and D) was at 19:44:31. The first time a Department member requested an ambulance was at 19:45:28. (Att. 12, 65, 91)

⁵ The number used to make this call indicates that it came from Witness 5.

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION: (Continued)

The Chicago Fire Department ambulance report indicated that the paramedics arrived on the scene at 1953 hours. Upon examining Subject 1, they found him without a pulse and not breathing. Harrison was subsequently transported by CPD. (Att. 40)

An autopsy was performed on Subject 1 on 07 August 2007 by the Assistant Medical Examiner. The examination revealed a series of injuries, the most significant being a gunshot wound to Subject 1's left upper back. The bullet entered through the back of Subject 1's left shoulder, struck the cervical vertebrae, transected the spinal cord, struck the carotid artery and exited through the right side of the neck. The path of the bullet is back to front, left to right, and upwards. The entry wound is on the left upper back, 9.5 inches beneath the top of the head, 1.8 inches to the left of the posterior midline and the exit wound is on the right side of the neck, 7.8 inches beneath the top of the head, 2.4 inches to the right of the anterior midline. The shot was not fired at close range. The remaining injuries noted are primarily abrasions that resulted from Subject 1 falling face first to the ground after being shot. The Assistant Medical Examiner opined that the cause of death is the gunshot wound of the back, and the manner of death is homicide. The toxicological examination did not indicate the presence of any opiates or ethanol. The report described Subject 1's outer clothing as a white t-shirt and green and orange shorts. The report indicated that there was one electrocardiogram lead on Subject 1's left lower chest. (Att. 44)

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION: (Continued)

In a subsequent conversation with IPRA on 05 March 2009, the Assistant Medical Examiner explained that the location of injury to the spinal cord meant that Subject 1 would have been paralyzed, but that “nonpurposeful” movement was possible after the injury was inflicted. The Assistant Medical Examiner described that movement by saying that momentum would have played a role in it, and that it could have looked like Subject 1 was stepping forward. The Assistant Medical Examiner was unable to determine whether Subject 1’s muscles were contracting once he was on the ground. She described the injuries to his face as being consistent with someone who did not break a fall. (Att. 103)

Photographs taken by staff at the Medical Examiner’s office depict the gunshot wound and abrasions to Subject 1’s face described in the Assistant Medical Examiner’s report. (Att. 51-55)

An additional autopsy was performed on Subject 1 on 18 August 2007 at the DuPage County Coroner’s Office by a doctor. The doctor came to the same conclusion as the Assistant Medical Examiner, that Subject 1 died as a result of a gunshot wound that involved the vertebral column and spinal cord. The doctor measured that the entry wound was on the left back in the scapular area, 28 cm from the top of the head and 5.5 cm to the left of the midline. The exit wound was on the right side of the neck, 25.5 cm from the top of the head, 6.5 cm to the right of the midline and 9.5 cm from the right tragus. (Att. 104)

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION: (Continued)

The Illinois State Police Firearms Report indicated that Officer A's weapon and the weapon recovered near Subject 1 were both test fired and found to be in firing condition. The Lorcin model L9MM semiautomatic pistol recovered near Subject 1 had an obliterated serial number. The Winchester 9mm Luger+P caliber fired cartridge case recovered at the scene was fired in Officer A's Smith & Wesson, model 5943, 9mm semiautomatic pistol. (Att. 35)

The Illinois State Police Gunshot Residue Report indicated that Subject 1 "may not have discharged a firearm with either hand. If he did discharge a firearm, then the particles were removed by activity, were not deposited, or were not detected by the [laboratory] procedure." (Att. 38)

The Illinois State Police Fingerprint Report indicated that there were no latent impressions suitable for comparison on the gun recovered near Subject 1, nor on the magazine or cartridges recovered in that gun. (Att. 39)

The Illinois State Police DNA Report dated 26 September 2007 indicated that the blood recovered from the barrel of the Lorcin semiautomatic pistol matched Subject 1's DNA profile. The DNA profile obtained from swabs from the grips, trigger, and slide of the Lorcin does not exclude Subject 1. It was the opinion of the ISP Crime Lab Deputy Director

INVESTIGATION: (Continued)

that, based on a population that included Subject 1 and the matches that were made between the recovered profile and Subject 1, the profile recovered from the grips, trigger and slide of the Lorcin came from Subject 1. The ISP Crime Lab Deputy Director further stated that the concentration of DNA obtained from the grips, trigger and slide was indicative of someone who was grasping the gun and sweating. There was no blood recovered from the grips, trigger and slide. (Att. 36, 43, 102)

During a Roundtable panel several hours after the incident, the involved officers provided statements. (Att. 24) Officer A related to the Roundtable panel that he was working with Officer C and they were driving westbound on Roosevelt. Officer A saw Subject 1 at Francisco and believed that Subject 1 had a gun. Officer A clarified that Subject 1 held his side in a manner that Officer A had previously seen people do when they have a gun. Subject 1 turned and walked behind a crowd when he saw the officers. Officer A provided Subject 1's description over the radio to Officers D and B, who were in the car behind Officers A and C.⁶ Officer C turned around on Francisco and drove eastbound on Roosevelt. He stopped the car and as Officer A started to exit to talk to Subject 1, Officer A saw the butt of Subject 1's gun in his waistband. Subject 1 ran eastbound on Roosevelt and Officer A chased him. After running diagonally through a vacant lot into an alley, Officer A lost sight of Subject 1, who had entered another vacant lot. Officer A drew his weapon and then saw Subject 1 running

⁶ The radio communications between the four involved officers were made in a car-to-car mode that is not recorded.

INVESTIGATION: (Continued)

toward him with a gun at his right side. Subject 1 ran toward the alley and raised his gun while pointing it across his body at Officer A. Officer A feared for his life and called for Subject 1 to drop the gun. When Subject 1 refused to do so, Officer A crouched to the ground and fired one shot. Subject 1 took two or three steps and fell to the ground. Subject 1 was moving on the ground, so Officer A handcuffed him. Officer A then saw Officer B request assistance over the radio.

Officer C related that he was working with Officer A and they were traveling westbound on Roosevelt. They saw Subject 1 walking down the street with his right hand on his side and they believed that Subject 1 was holding a firearm. As the officers approached Subject 1 in their squad car, he turned around and started walking eastbound on Roosevelt. Officer C turned the squad car around on Francisco and turned east onto Roosevelt. Officers C and A stopped to talk to Subject 1, who looked at them and started to run eastbound on Roosevelt. Officer A got out of the car and followed Subject 1 onto Mozart and diagonally through a vacant lot. Officer C continued driving, turning north onto California. He saw Officer B get out of the squad car in front of him and run west through a vacant lot. Officer D continued driving the other squad car northbound on California and Officer C followed. Officer C heard one gunshot as he approached Fillmore. He turned west onto Fillmore and south into an alley. He observed Subject 1 handcuffed on the ground and he observed a gun two or three feet away from Subject 1.

INVESTIGATION: (Continued)

Officer B related to the Roundtable panel that he was working with Officer D. Officers C and A stopped their squad car at Roosevelt and Francisco and radioed to Officers B and D that they wanted to talk to Subject 1. Subject 1 ran away from them before they had an opportunity to do that and Officer A ran after him. Officer D drove to California and turned north. He stopped the car at a vacant lot and Officer B got out of the car and ran through the lot to the alley. He wanted to stop Subject 1 from running out onto California because Officer A had said over the radio that Subject 1 was running eastbound. He saw Subject 1 running westbound back toward the alley and assumed that Subject 1 turned around when he saw the squad car on California. Subject 1 was holding a gun in his right hand, which was pointed at the ground as he ran. Officer B saw Subject 1 raise his right arm in front of his body, but Officer B was directly behind Subject 1 and did not see where Subject 1 pointed the gun. Officer B saw Officer A for the first time at this point, standing to Subject 1's left. Officer A told Subject 1 to put down the gun but Subject 1 did not. Officer A then got into position and fired one shot. Subject 1 took two steps and fell to the ground. The gun fell on the ground near him. Officer B reported that shots had been fired and requested an ambulance over the radio.

Officer D related to the Roundtable panel that he was working with Officer B driving westbound on Roosevelt, and that he and Officer B observed Officers C and A slow down

INVESTIGATION: (Continued)

near Francisco. There were a lot of people near a liquor store in that area. Officer A told Officers D and B that he wanted to talk to Subject 1 because he thought Subject 1 might have a gun. The officers turned around and drove eastbound on Roosevelt. Subject 1 saw them and started to run. Officer A got out of the car and ran after him, going northbound on Mozart and cutting across a vacant lot. Officer D drove to California and turned north, stopping at a vacant lot. Officer B got out of the car at that point and Officer D proceeded north to Fillmore and heard one gunshot. Officer D turned west on Fillmore and south on Mozart. He turned into a vacant lot north of XXXX S. Mozart and saw Officers A and B. Subject 1 was on the ground and a gun was on the ground next to him.

A Chicago Police Department detective related to the Roundtable panel that he conducted a canvass of the area and interviewed several people in the rear apartment on the first floor of XXXX S. Mozart⁷. Reportedly, the witnesses, while inside, saw Officer A chase Subject 1 through the vacant lot. They then went outside and saw Subject 1 run through a second lot toward California and then double back to the alley, where Officer A shot him one time. The witnesses did not see Subject 1 with a gun. They told the Chicago Police Department detective that they would come to Area 4 for the Roundtable, but they never arrived.

⁷ Most of these witnesses (Witnesses 1, 2, and 3, Witness 4 and Witness 5) were interviewed by OPS. The only known member of the group who was not interviewed by OPS/IPRA is Witness 19.

INVESTIGATION: (Continued)

A Chicago Police Department Sergeant related to the Roundtable panel that he monitored a call on the radio that someone on the scene named “Eric” wanted to talk to a sergeant because he had the shooting on video⁸. The Chicago Police Department Sergeant obtained the number and called Eric. The Chicago Police Department Sergeant identified himself and described what he was wearing and where he was located, and Eric agreed to meet him. When Eric did not arrive within five minutes, the Chicago Police Department Sergeant made several attempts to contact him at the same number, but Eric did not respond. (Att. 24)

On 16 April 2008, the State’s Attorney’s Office sent a letter to IPRA indicating that, after reviewing IPRA’s investigation, they determined that they would not pursue criminal charges against any of the involved officers. (Att. 57)

In a statement with IPRA on 29 April 2008, Officer D provided essentially the same information as in his statement to the Roundtable panel. Officer D added that when he came upon the scene of the shooting, he did not see anyone on the rear porch of the building next to the vacant lot. (Att. 59)

⁸ The OEMC call referred to by the Chicago Police Department Sergeant was made from Witness 5’s cell phone. Witness 5 denied knowing who “Eric” is and stated that she did not know who used her phone when she loaned it to an unidentified woman. “Eric” was never identified or located by OPS/IPRA.

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION: (Continued)

In a statement with IPRA on 30 April 2008, Officer C provided essentially the same information as in his statement to the Roundtable panel. Officer C added that he saw a gun on Subject 1's side when they passed him on the street at Roosevelt. He also related that when he got to the location where Subject 1 was shot, he did not observe anyone on the rear porch of the building next to the vacant lot. (Att. 60)

In a statement with IPRA on 08 May 2008, Officer B provided essentially the same information as in his statement to the Roundtable panel. He added that when he was notified by Beat 4412 of their intention of performing a street stop on Subject 1, they indicated that they believed Subject 1 might have had a gun. Officer B stated that he saw a shiny object that appeared to be a gun in Subject 1's hand when he initially saw Subject 1 running westbound through the vacant lot on California. Officer B described that Subject 1 was holding the gun in his right hand and pumping his arms as he ran. Officer B further stated that he did not see anyone on the rear porch of the building next to the vacant lot before the shooting. It was not until after the shooting occurred and Subject 1 was handcuffed that Officer B observed people gathering on the porch. (Att. 62)

In statements with IPRA as a witness on 01 May 2008 and as an accused on 26 January 2009, Officer A denied the allegation against him and provided essentially the same information as in his statement to the Roundtable panel. He added that when he fired the shot

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

INVESTIGATION: (Continued)

that struck Subject 1, no one was on the rear porch next to the vacant lot. Officer A did not see anyone there until he was handcuffing Subject 1. Officer A stated that the first time he actually saw Subject 1's gun was when Subject 1 ran toward Officer A in a westerly direction after turning around in the vacant lot on California. Prior to that, when he initially saw Subject 1 on Roosevelt, Officer A thought Subject 1 might have a gun because the way Subject 1 tugged on his waistband was a manner with which Officer A was familiar through prior experience with people who have guns in their waistbands. Officer A described that Subject 1 had the gun in his right hand as he pumped his arms while running in the officer's direction. When Subject 1 fell to the ground, the gun landed approximately one foot or less from Subject 1's right hand. Officer A further stated that, while he later learned that Subject 1's gun was nickel-plated with a black handle, all he saw at the time of the incident was that the gun was "shiny". Officer A denied that he violated Department policy when he fired at Subject 1. He stated that he fired at Subject 1 when Subject 1 pointed a gun at him, causing him to fear for his life. (Att. 61, 86)

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

CONCLUSION:

This investigation must determine whether Officer A's use of deadly force on Subject 1 was in compliance with 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 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 A relies on the first part of this policy in stating that he was in fear for his life when Subject 1 pointed a "shiny" handgun at him. Officer A and the other officers initially wanted to talk to Subject 1 because Subject 1's behavior, including tugging at his waistband and attempting to avoid visual contact with the officers, made him think Subject 1 may have had a gun. There is no indication that the officers were going to arrest Subject 1 when they initially tried to stop him at Roosevelt and Francisco, so the second part of the policy does not apply.

CONCLUSION: (Continued)

In determining whether Officer A reasonably believed that he was at risk of death or great bodily harm, the first disputed fact is whether Subject 1 possessed a gun during the incident.

The officers involved in this incident described Subject 1's actions when they initially saw him on Roosevelt as behavior consistent with what they had previously experienced from people who had a gun in their possession. Officer C, Officer A's partner, told IPRA that he saw what appeared to be a gun at Subject 1's side when they were on Roosevelt. Officer A and Officer B then saw Subject 1 with a gun during the foot pursuit. Witness 5 related that she knew Subject 1 to possibly carry a gun when he was "at war" with people in the neighborhood. Witness 6 told IPRA and the investigating CPD detectives that Subject 1 threatened him with a gun earlier that day. Witness 6 stated that after telling members of the community that Subject 1 may have had a gun when he was shot, he felt threatened and moved from the neighborhood. Witness 6's description of the gun Subject 1 had earlier in the day matched the Lorcin recovered on the scene. DNA extracted from biological material (non-blood) on the grips, slide and trigger of the Lorcin also matched Subject 1. A majority of the witnesses on the scene immediately after the shooting stated that they did not see Subject 1 with a gun and did not see a gun on the scene at any point. However, a gun was on the scene as shown in the pictures and Witness 13 stated she saw a gun immediately after

CONCLUSION: (Continued)

Subject 1 was handcuffed. By all accounts, Subject 1 was handcuffed immediately after the shooting. Thus, the gun was seen by an independent witness within seconds of the shooting. Witness 14 heard one officer say something about a gun when officers were collecting evidence from the scene. Witness 14 also saw officers “pick” up Subject 1 after he had been handcuffed, but did not see officers touch or move a gun. While a large number of witnesses were present during or immediately after the incident, none of them reported seeing an officer touch a gun or place one at the scene; additionally, none of those witnesses reported seeing an officer take any action that could explain the significant amounts of DNA (which, according to the Illinois State Police Crime Lab, had a profile that came from Subject 1) on the grips, slide and trigger of the Lorcin that was recovered. A preponderance of the evidence, therefore, indicates that the gun recovered on the scene was in Subject 1’s possession at the time of the incident.

The next question is whether Officer A had an objectively reasonable belief that Subject 1, while in possession of the gun, presented a threat of death or great bodily harm. Officer A stated that Subject 1 had the gun in his right hand, and that he pointed it at Officer A.

CONCLUSION: (Continued)

There are eight civilian witnesses (Witness 1, Witness 2, Witness 3, Witness 4, Witness 5, Witness 8, Witness 11 and Witness 17) who witnessed the shooting and stated that they did not see Subject 1 with a gun in his hand.

In his deposition, Witness 11, who appears to have had no prior relationship with Subject 1, stated that he initially saw Subject 1 when Subject 1 entered the alley coming from the vacant lot on the east side of the alley. Witness 11 then saw Officer A emerge from that same vacant lot and shoot Subject 1. All of the other witnesses stated that Officer A entered the alley from the vacant lot south of XXXX S. Mozart and west of the alley, not from the vacant lot on the east side of the alley. Witness 11 also stated that the vacant lot where Subject 1 was shot was free of grass, debris or other garbage. Photographs taken on the date of the incident depict that, while some of the lot is bare, the area where Subject 1 fell has grass and there was some garbage strewn about the area. Witness 11 stated that he saw Subject 1 holding his pants with his right hand as he ran.

Witnesses 1, 2, and 3 (who are god-mother or god-sister to Subject 1), Witness 4 (Witness 1's god-daughter), and Witness 5 all stated that they were on Witnesses 1, 2, and 3's rear porch at the time of the shooting, which is on the first floor of the building adjacent to the alley and the vacant lot where Subject 1 was shot. From that vantage point, they would have had a clear view of the incident. Officers A and B both stated that there was no one on

CONCLUSION: (Continued)

the porch at that point and that it was only after they handcuffed Subject 1 that people began to gather there. It is impossible to determine definitively whether the witnesses were on the porch; however, by their own accounts, they not only did not see a gun in Subject 1's hand, they never saw a gun on the scene – an account which is contradicted by other witnesses and the photographs taken on the date of the incident.

Witness 17, a ten-year-old juvenile at the time of the incident, was standing on the rear porch of Witness 11's building at XXXX S. California and provided a description of the incident that is inconsistent with what other witnesses saw. Witness 17, who is now twelve years old, told IPRA that he was on the porch with his aunt (Witness 18) and now-five-year-old cousin, but he told the detectives on the date of the incident that he was alone on the porch. Moreover, while Witness 17's aunt did not cooperate with this investigation, his grandmother stated that Witness 17's aunt was inside the building with her at the time of the incident and that neither of them were witnesses. Witness 17's grandmother told this same information to the detectives on the night of the incident. Witness 17 told IPRA that he could see Subject 1 exit a store at the corner of Mozart and Roosevelt and run eastward to the alley, but the building at XXXX S. Mozart would have blocked Witness 17's view for much of this portion of Subject 1's movement. Witness 17 also described Subject 1's clothing as being all black, but photographs and the Medical Examiner's report indicate that Subject 1 was wearing a white shirt and plaid shorts. Finally, Witness 17's description of the shooting itself,

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

CONCLUSION: (Continued)

with Subject 1 standing still, hands on knees, and two shots fired is contrary to descriptions provided by all other witnesses, civilian and police.

The two officers who were on the scene at the time of the shooting, Officers A and B, both stated that they saw a gun in Subject 1's hand. Officer B saw the gun in Subject 1's right hand when he exited the squad car on California while Subject 1 was in the vacant lot on the east side of the alley. Subject 1 was running westbound, away from Officer B, at this point. Officer A then saw Subject 1 exit that vacant lot and run across the alley, and he saw a gun in Subject 1's hand for the first time. Both officers described the gun as "shiny", a description that matches the recovered weapon. The officers remained consistent in their accounts of the incident when they spoke to the ADS, in preparing the related Department reports, when they spoke to the Roundtable panel and in their statements to IPRA, with one exception. The Roundtable report indicates that Officer A stated that he saw the butt of a gun when he initially saw Subject 1 on Roosevelt. When interviewed by IPRA, Officer A said he first saw the gun when Subject 1 emerged from the alley running westbound and holding the gun in his hand.

There is a clear conflict between the eyewitnesses who say Subject 1 did not have a gun in his hand and the officers who say he did.

CONCLUSION: (Continued)

A preponderance of the physical evidence supports Officer A's account. After the shooting the gun was located next to Subject 1's body. The gunshot that killed Subject 1 also severed his spinal cord. The medical examiner reported that this would have immediately paralyzed Subject 1, resulting in only non-purposeful movement caused by momentum. If the gun were not in Subject 1's hand at the moment he was shot, it would have had to have been secured somehow in his clothing. If that were the case, however, then it is likely that the gun would have remained secured in Subject 1's clothing when he was shot and that it would not have landed towards his side.

Officer A described seeing Subject 1 hold the gun in his right hand and point it across his body at Officer A, who was standing in the alley to Subject 1's left at the time. Officer B stated that he saw Subject 1 hold a gun in his right hand and move that hand in front of his body as he ran out of the lot on the east side of the alley and across the alley. Officer B was directly behind Subject 1 at this point and could not see exactly what Subject 1 was doing, but this motion is consistent with Officer A's description of Subject 1 pointing the gun across his body at Officer A. Witness 11, while not seeing a gun in Subject 1's hand, described a similar movement, stating that he saw Subject 1 with his right hand across the front of his pants holding onto his pants.

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1008171; U #07-25

CONCLUSION: (Continued)

The bullet wound is consistent with Officer A's account as well. The bullet entered Subject 1's left, upper back (near the shoulder) and traveled left to right, back to front and upwards, exiting on the right side of the neck. This is consistent with Officer A firing at Subject 1 as Officer A stood in the alley and Subject 1 ran across the alley east to west and north of where Officer A was standing.

Taking into consideration the totality of the circumstances, including the facts that Subject 1 was initially acting in a manner that led the officers to believe that he had a gun, that Subject 1 ran away from the officers when they tried to talk to him, that Subject 1 had a gun, that Officer A saw Subject 1 with a gun in his hand, and that Subject 1 moved his right arm across the front of his body, Officer A believed Subject 1 pointed a gun at him, presenting an immediate threat of death or great bodily harm. This belief was objectively reasonable.

Because Officer A's belief that Subject 1 presented a threat of death or great bodily harm was objectively reasonable, the Reporting Investigator recommends a finding of Unfounded for Allegation 1, that Officer A used deadly force on Subject 1 in violation of Department policy.