

INDEPENDENT POLICE REVIEW AUTHORITY  
PUBLIC REPORT OF INVESTIGATION

**INVESTIGATION**

**NUMBER:** Log #1000647; U #06-36

**OFFICER(S)  
INVOLVED:**

“Officer A” (Chicago Police Officer) — Male/White  
Hispanic; 38 years old; On-duty; In uniform; Year of  
Appointment — 1997

**OFFICER  
INJURIES:**

None reported.

**SUBJECT(S)  
INVOLVED:**

“Subject 1” — Male/Black; 26 years old

“Subject 2” — Male/Black; 32 years old

**SUBJECT  
INJURIES:**

“Subject 1” — One gunshot wound to lower left leg with  
bullet lodged in left calf.

“Subject 2” — No injuries.

**INITIAL  
INCIDENT:**

Armed robbery

**DATE/ TIME:**

21 Oct 06, 0150 hours

**LOCATION:**

4501 S. Ashland  
Beat 921

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**SUMMARY OF INCIDENT:**

On 21 Oct 06, at approximately 0150 hours, Officers A and B, working Beat 4230A, were traveling in their squad car east on 45<sup>th</sup> Street near McDowell. The officers observed two persons (later identified as Witnesses 1 and 2) pointing at two male/blacks and yelling, "Gun!" Officer B, who was driving the squad car, chased one of the male/blacks, who wore a leather jacket (he was later identified as Subject 2). Subject 2 was caught and arrested. Officer A, who had exited the squad car, chased the second male/black, who wore a tan jacket (he was later identified as Subject 1). Officer A chased Subject 1 west on 45<sup>th</sup> Street towards Ashland.

Subject 1 fell twice on the pavement and each time he fell, Officer A heard metal striking the ground. Officer A announced his office and ordered Subject 1 to stop. Officer A said he was directly behind Subject 1 when Subject 1 turned and used his right arm to attempt to disarm Officer A, who was holding his gun. Officer A said he was placed in fear for his life. Officer A pulled back and fired his weapon twice, striking Subject 1 once in the left leg. Subject 1 threw his loaded .32 caliber semi-automatic pistol into the middle of the street near 4504 S. Ashland. Subject 1's weapon was recovered. Subject 1 was taken into custody and transported to Holy Cross Hospital, after which he was transferred to Christ Hospital and later placed into police custody.

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A Chicago Police Department Detective related to the Roundtable panel that he interviewed Witness 2, who would not remain at Area 1 to provide his account before the Roundtable. Witness 2 told the detective that he and his girlfriend, Witness 1, were exiting Witness 1's vehicle near a tavern when they were approached by Subject 1 and Subject 2. Subject 1 placed his gun to Witness 2's head and demanded money. Witness 2 handed over Witness 1's purse and keys, which he was holding. Subject 2 and Subject 1 fled on foot. Witness 2 chased Subject 2. Witness 2 and Witness 1 flagged down the squad car containing Officers A and B and told them that the offenders had a gun.

A Chicago Police Department Detective interviewed Witness 1, who also refused to appear before the Roundtable. Witness 1's account as related by the detective was consistent with Witness 2's account. In addition, Witness 1 related that, while the offender (Subject 1) had his gun to Witness 2's head, Witness 2 yelled, "Babe, give them the money!" The offenders fled, but Subject 2 was returned to the scene minutes later in handcuffs. Witness 1 stated that her purse was returned to her by an unidentified male/white, but \$300.00 was missing from the purse and her personal belongings were scattered inside it.

Off-duty Cook County Sheriff's Deputy Witness 3 related to the Roundtable panel that he was inside Vince's Bar, 4518 S. McDowell, when he observed two persons

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**INVESTIGATION (Continued):**

(Witness 1 and Witness 2) facing two offenders (Subject 1 and Subject 2). Witness 3 exited the bar and heard Witness 2 say that he was being robbed and the offender had a gun. Witness 3 went to his personal vehicle and obtained his gun. Witness 3 assisted Officer B in handcuffing Subject 2.

Subject 2 related to the Roundtable panel that he knew Subject 1 for several years and that on occasion, they consumed narcotics together. Subject 2 said that he saw Subject 1 near 4500 S. McDowell. Subject 1 asked Subject 2 to walk with him, stating that he was going to buy some narcotics and smoke them with his girlfriend. When Subject 2 and Subject 1 passed a bar, they saw Witness 2 and Witness 1, who were exiting their vehicle. Subject 2 stood and watched while Subject 1 produced a handgun and robbed Witness 2 and Witness 1. Subject 2 saw a squad car and fled on foot, going over two fences and falling. He was caught by Officer B. Subject 2 was asked by Officer B if he knew the location of either the gun used or the purse stolen in the robbery, but Subject 2 had no information about either object.

A Chicago Police Department Detective related to the Roundtable panel that he went to Holy Cross Hospital, where he met Subject 1, Mirandized him and interviewed him. Subject 1 said that he was visiting relatives near 5200 S. Ashland and decided to leave and catch a bus nearby. Subject 1 saw people on the street. An unknown male/black approached Subject 1, demanded money and then fled. A few minutes later, Subject 1

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**INVESTIGATION (Continued):**

again saw a male, dressed in black clothes, with a flashlight in his hand. Subject 1 believed he was going to be robbed again, so he fled. Subject 1 heard the male yell at him to stop. Subject 1 heard one shot, felt pain in his left leg and fell to the ground. Subject 1 denied any involvement in an armed robbery and denied having a gun. When the detective confronted Subject 1 regarding the gun found on the scene, as well as Subject 1's car keys and two cars registered to him that were located in the area, Subject 1 responded by stating words to the effect of, "You motherfuckers ain't got shit on me. I want my lawyer."

Officer B related to the Roundtable panel that he and Officer A were traveling east near McDowell when they heard Witness 2 and Witness 1 yelling, "Gun!" and saw them pointing towards Subject 2 and Subject 1. Officer B stopped the squad car to allow Officer A to exit the vehicle and chase Subject 1 on foot. Officer B continued driving the squad car and chased Subject 2. Officer B placed Subject 2 under arrest without incident. Officer B had no part in Subject 1's arrest, nor did he witness it.

Officer A related to the Roundtable panel that he chased Subject 1 west through a lot and towards an alley on the way to 4500 S. Ashland. Officer A announced his office and told Subject 1 to stop. Subject 1 fell twice during the chase, at which time Officer A heard the sound of metal striking the ground. Officer A believed the sound was of Subject 1's handgun striking the pavement. When he closed on Subject 1, Officer A reached to

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**INVESTIGATION (Continued):**

grab Subject 1's shoulder, but Subject 1 turned to grab Officer A's gun and to disarm him. Officer A said he was in fear for his life and pulled back from Subject 1. Officer A discharged his weapon twice, striking Subject 1 in the left calf. Subject 1 stumbled forward and tossed his handgun to near the center of the street at approximately 4504 S. Ashland.

Officer C of the 9<sup>th</sup> District related to the Roundtable panel that when he responded to the scene, he observed a handgun, identified as the one belonging to Subject 1, lying near the center of the street at 4504 S. Ashland. Officer C secured the area and waited for Department evidence technicians to arrive.

Subject 1 refused to be interviewed by OPS.

The ambulance report indicates that there was a gunshot wound to Subject 1's lower left leg, with the bullet beneath the skin on the left inner knee. No other injuries or wounds were noted.

Subject 1's medical records indicate he sustained a gunshot wound to his left leg.

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**INVESTIGATION (Continued):**

Attempts to interview Witness 2 and Witness 1 were unsuccessful. The attempts included calls to Witness 2's and Witness 1's telephone numbers, and letters sent and personal visits made to their addresses.

Subject 2's Arrest Report indicates that he was placed in custody at 4559 S. McDowell. Subject 1's Arrest Report indicates that he was arrested at 4503 S. Ashland. Court records indicate that Subject 1 pleaded guilty to attempted armed robbery and disarming a peace officer and was sentenced to four years in prison.

The canvass did not produce any additional eyewitnesses.

The report from a Chicago Police Department Acting Assistant Deputy Superintendent (A.D.S.) indicates that Witness 1 signed a refusal to prosecute before leaving Area 1. Witness 2, Witness 1 and Witness 3 positively identified Subject 1 and Subject 2.

Officer A's Tactical Response Report indicates that he was less than 5 feet from Subject 1 when he fired. The A.D.S. was unable to interview Subject 1 after he demanded legal representation.

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**INVESTIGATION (Continued):**

The Forensic Services photos depict the parking lot where the shooting occurred; fired evidence; and Subject 1's handgun.

Event queries from the Office of Emergency Management and Communications indicate that Officer A immediately reported his weapon discharge and that Subject 1's weapon was recovered.

A report from the Illinois State Police ("ISP") Division of Forensic Services indicates that two recovered casings were fired from Officer A's 9mm pistol.

ISP reports indicate that no latent impressions suitable for comparison were found on Subject 1's pistol, which was examined, found to be in firing condition and test fired.

An ISP report indicates that a low-level mixture of human DNA profiles was identified in swabs from Subject 1's pistol. The mixture was interpreted as coming from at least two people. Subject 1, who is male/black, could not be excluded from having contributed to the mixture. (Approximately 1 in 29 unrelated black individuals could have contributed to the mixture.) A low-level mixture of human DNA profiles was identified in swabs from Officer A's pistol. The mixture was interpreted as coming from at least two people. Subject 1 can be excluded from having contributed to the mixture. A



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**INVESTIGATION (Continued):**

human DNA type was also identified in swabs from Officer A's gun slide. That DNA type was not suitable for comparison to other DNA profiles or known standards.

The Crime Scene Processing Report indicates that a tan coat was recovered from the sidewalk at the scene and was designated with Marker #4. A Forensic Services diagram indicates that Subject 1's weapon, a blue-steel pistol, was recovered on the street, approximately 20 feet from the west curb of Ashland.

A Firearms Trace Summary from the Bureau of Alcohol, Tobacco, Firearms and Explosives notes that the trace of Subject 1's weapon could not be completed because the gun was made prior to the marking and record-keeping requirements of the Gun Control Act of 1968.

The detectives' Case Supplementary Report indicates that the tan coat at Marker #4 contained medications in Subject 1's name. Subject 1 was charged with aggravated unlawful use of a weapon and two counts of armed robbery. Subject 2 was released without being charged. Subject 1's weapon was found to be clear, but not registered. Officer A related to the detectives that after he grabbed Subject 1's shoulder during the foot chase, Subject 1 turned toward him and grabbed Officer A's gun. Officer A, in fear for his life, jerked his gun from Subject 1 and fired two shots at him.

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**INVESTIGATION (Continued):**

The Case Supplementary Report includes accounts from Witness 2 and Witness 1 that are consistent with their accounts as presented at the Roundtable. In addition, Witness 2 told detectives that Subject 1's gun was black and that Subject 2 "just stood there," was not armed and never said anything. While at the scene, Witness 2 identified Subject 2 as one of the two people who robbed him.

The Case Supplementary Report also indicates that Witness 1 told detectives that one of the offenders pressed something up against Witness 2's cheek during the robbery. After they spoke with detectives, Witness 2 and Witness 1 told the detectives that they could not stay at the police station any longer and left.

The Case Supplementary Report indicates that Witness 3 told detectives that during the incident, he did not see the face of the offender who wore a brown and red jacket (Subject 1). Witness 3 said that at the scene, he identified the subject who wore a black leather jacket (Subject 2).

The Case Supplementary Report indicates that Subject 1 told the detectives that the "unknown male/black" who robbed him got a couple of dollars from him. Subject 1 did not know why the officer shot him. Subject 1 said he did not do anything, that he was alone, and he never had a gun.

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**INVESTIGATION (Continued):**

In his statement to IPRA, Officer A provided an account that was consistent with his Roundtable account. In addition, Officer A related that when he chased Subject 1, he (Officer A) had his gun in his hand and ordered Subject 1 to stop and drop his weapon. In the parking lot, Officer A, who held his gun in his right hand, used his left hand to grab Subject 1's right shoulder. Subject 1 used his right hand to reach back and grab Officer A's right hand. Officer A stopped running and pulled his gun back with both hands to prevent Subject 1 from taking the gun. Officer A fired twice at Subject 1 because he was in fear of being disarmed.

Officer A was two or three feet from Subject 1 when he fired. Officer A did not know if Subject 1 touched his (Officer A's) gun when Subject 1 grabbed his hand. When Subject 1 threw his gun away, it was the first time Officer A saw the gun.

In his statement to IPRA, Officer B provided an account that was consistent with his Roundtable account. In addition, Officer B said while he was handcuffing Subject 2, Witness 2 ran up, tried to "get at" Subject 2 and had to be backed off by Officer B. After Officer B handcuffed Subject 2, he heard gunshots and reported the chase and the "shots fired" on his radio. Officer B estimated that he was at least two blocks from the shooting scene. Officer B did not see Subject 2 armed with a gun at any time.

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**CONCLUSION AND FINDING:**

This investigation found that, based on the preponderance of evidence, 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."

According to Officer A, he fired at Subject 1 when he believed that Subject 1 was attempting to disarm him, thereby preventing Subject 1 from using Officer A's gun against him.

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**CONCLUSION AND FINDING (Continued):**

In addition, Officer A had been told that a gun was used in the robbery and therefore reasonably believed that Subject 1, who was trying to escape, had committed a forcible felony and was armed.

Subject 1 denies having a gun, being involved in the robbery or reaching for the officer's gun. But Subject 1 has little credibility. Subject 2, who was with Subject 1, contradicted Subject 1's account, stating that Subject 1 produced a handgun and robbed Witness 2 and Witness 1. In addition, Witness 2's description of Subject 1's gun as black is consistent with the Forensic Services Unit's description of the gun recovered on Ashland (blue steel). The available evidence indicates that Subject 1 robbed the couple and then fled with a gun. The trajectory of the bullet that struck Subject 1's leg does not necessarily contradict Officer A's account of the incident.