

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1060261/U#13-07

**INVESTIGATION**

**NUMBER:** Log # 1060261/ U13-07

**INVOLVED**

**OFFICER:** “Officer A” (Chicago Police Sergeant); Male/White; 45 years old;  
On Duty; Not In Uniform; Year of Appointment – 1992

**INVOLVED**

**OFFICER’S**

**INJURIES:** None Reported

**INVOLVED**

**SUBJECT:** “Subject 1”; Male/Hispanic; 23 years old

**SUBJECT’S**

**INJURIES** (1) gunshot wound to upper left arm. Treated and released at  
Stroger Hospital

**INITIAL**

**INCIDENT:** Armed Robbery

**DATE/TIME:** 19 February 2013 at 2350 hours

**LOCATION:** 1601 N. Milwaukee Avenue, Chicago IL

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## SUMMARY OF INCIDENT

Due to several robberies of small businesses, a task force was formed to apprehend the responsible subject. The police obtained a physical description of the subject and his vehicle. The subject was later identified as Subject 1 and the car used in the robberies was identified as a green Ford Explorer. On the date of this incident, members of the task force received information that a Subway restaurant had been robbed in the area of Chicago Avenue and State Street. The description of the subject and his vehicle matched the description of the subject wanted in the previous robberies. Several units were searching the area, when Officer B observed the green Ford Explorer traveling west on North Avenue toward Damen Street. Officer B followed the vehicle and was joined a short time later by Officer C, who followed in her covert vehicle.

Officer A, a member of the task force, was traveling east on North Avenue when he observed the subject. Officer A activated his emergency equipment and conducted a traffic stop. Officer A announced his office and ordered Subject 1 out of the vehicle, but Subject 1 did not comply with the order. Instead, Subject 1 placed his vehicle in reverse, striking the vehicle of Officer B. Subject 1 then placed his vehicle in drive and accelerated toward Officer A and the other officers. Officer A fired one shot through Rosas driver's side window striking him in the left arm. Subject 1's vehicle came to an abrupt stop and he was placed in custody and transported to the hospital by the Chicago Fire Department.

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### INVESTIGATION:

Attempts to interview **Subject 1** were unsuccessful. IPRA Investigator A and IPRA Investigator B contacted Subject 1 and scheduled an interview with him at the Cook County Jail. At the onset of the interview, Subject 1 was read the IPRA notice at which time he declined to provide a statement.

The **Arrest and Case Reports of Subject 1** document that he was arrested and charged with Attempted Murder, Aggravated Assault of a Police Officer with a Motor Vehicle, Armed Robbery, and Attempted Armed Robbery. They also document that Subject 1 was shot in the arm and placed into custody after driving his vehicle in the direction of Officer A and other officers. In addition to Officer A and Officer B, Officer C, Officer D, and Officer E assisted in the arrest.

The **Case Supplementary Report** documents that **Officer A** told detectives he was assigned to unit 630 and working in conjunction with several other Police Officers and Detectives on an Armed Robbery crime pattern. Officer A was on duty 19 February 2013, at approximately 2330 hours, when he received information that a Subway restaurant located at 816 N. State was robbed. The description of the subject matched the physical description of the subject who was wanted in several armed robberies. Shortly after that flash message, Officer A received a notification from Officer B, a member of the Armed Robbery Mission Team, that he observed the subject's vehicle traveling west bound on North Avenue.

Officer A was on Milwaukee Avenue traveling south when he observed the subject's vehicle traveling north on Milwaukee Avenue. Officer A activated his emergency lights and conducted a traffic stop of the subject's vehicle. Officer A exited his vehicle and ordered the subject to place his vehicle in park and to raise his hands. Instead, the subject placed his vehicle in reverse, striking Officer B's vehicle. He then put his vehicle in drive and sped in the direction of Officer A and the other officers. Officer A told detectives he was in fear for his life and in fear for the lives of the other Officers when he fired his handgun once, striking the subject in the arm. The subject's car crashed into a parked vehicle before coming to a complete stop. Officer A and the other officers pulled the subject from the vehicle and placed him under arrest. An ambulance was called and he was transported to Stroger Hospital by the Chicago Fire Department.

**Officer B** told detectives that he was working Chicago Police beat 1865 and was assigned to the 18<sup>th</sup> District Robbery Mission Team. He was on duty, working in civilian dress and driving a covert Chicago Police vehicle on 19 February 2013, in the vicinity of 1300 W. North Avenue, when a flash message announced a Robbery had just occurred. The message included a description of the subject and the vehicle which matched the description of the individual and vehicle wanted for a series of robberies in the area. Officer B was in an unmarked vehicle, traveling eastbound on North Throop Street, when he observed a green Ford explorer traveling westbound on North Avenue. The individual and vehicle matched the description of the subject wanted in connection with several robberies. Officer B made a U-turn and was able to maneuver behind the subject's

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vehicle. He used a secure radio channel to inform his robbery team that he was following the subject's vehicle westbound on North Avenue. A short time later, Officer C joined Officer B in following the subject.

Officer B observed Officer A's vehicle with its emergency lights activated, conducting a traffic stop of the subject's vehicle, at 1601 N. Milwaukee Avenue. Officer B parked his vehicle a short distance behind the subject's vehicle. Officer B heard Officer A give the subject verbal commands, announcing his office and ordering the subject to raise his hands. Officer B told detectives the subject's car suddenly went into reverse, striking his vehicle. Officer B heard the vehicle's engine revving and the subject went forward, driving his car into the path of Officer A and the two uniformed police officers. He observed Officer A fire his handgun in the direction of the subject. The subject's car stopped and Officer B and the other officers removed the subject from the car and placed him into custody. Officer B noticed the subject had been struck by gunfire and an ambulance was requested.

**Officer C** told detectives she and other Chicago Police Officers were assigned to investigate a series of armed robberies. She was on duty on 19 February 2013, when she received a radio message from Officer B that he was following a green Ford Explorer that matched the description of the vehicle used in several armed robberies. Officer C observed the subject's vehicle and Officer B's vehicle traveling westbound on North Avenue. Officer C then positioned her vehicle behind them. Officer C told detectives that when the subject made a turn on Milwaukee Avenue from North Avenue, she observed Officer A activate his emergency equipment and conduct a traffic stop of the subject's vehicle. When Officer C exited her vehicle, she heard several verbal commands being shouted at the subject, followed by one gunshot. As Officer C approached the subject's vehicle she observed he was shot. After Officer C assisted in securing the subject, she radioed for assistance. A short time later, several Chicago Police units along with the Chicago Fire Department arrived on the scene.

**Officer D** told detectives he was in uniform and working with his partner, Officer E, on 19 February 2013, at approximately 2349 hours, when he heard a siren in the area of Milwaukee Avenue. He observed an unmarked Police vehicle with the emergency lights activated, conducting a traffic stop of a green Ford Explorer, at approximately 1601 N. Milwaukee Avenue. Officer E, who was driving, made a left turn onto Milwaukee Avenue to assist with the traffic stop and parked a short distance behind the green Ford Explorer. As Officer D and Officer E approached the vehicle, they heard Officer A announce his office and order the subject to show his hands. The subject raised his hands briefly, put them down abruptly, placed the car in reverse and struck the vehicle behind him. The subject then put the car in drive and accelerated toward Officer A, Officer B, Officer E and Officer D. Officer D observed Officer A fire his handgun, striking the subject in the left arm. Officer D and other officers removed the subject from his vehicle and placed him under arrest. A short time later, a Chicago Fire Department Ambulance arrived.

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**Officer E** told detectives he was in uniform and working with his partner, Officer D, on 19 February 2013. The officers were on Milwaukee Avenue when they observed an unmarked Police vehicle with the emergency lights activated, conducting a traffic stop of a green Ford Explorer. Officer E and his partner decided to assist in the traffic stop and positioned their vehicle a short distance behind the green Ford Explorer. As Officer E exited his vehicle and approached the green Ford Explorer, he heard Officer A shout "police" and ask the driver of the Ford Explorer to show his hands. Officer E told detectives the subject raised his hands, but then lowered them and drove his vehicle in reverse, striking the vehicle behind him. Officer E related the Ford Explorer then abruptly drove forward toward Officer A, Officer B, Officer D and himself. Officer A then fired a single round, striking the driver in the arm. The Ford Explorer came to a stop and Officer E and the other officers placed the subject into custody.

**Witness 1**, told detectives he was in a parked car on the eastside of 1601 N. Milwaukee Avenue when he observed a police vehicle traveling southbound with its emergency lights on. Witness 1 reported he observed this police vehicle make a traffic stop on a green Ford Explorer. The Ford Explorer stopped next to the car in which he was seated. Witness 1 observed a white male police officer in plainclothes exit the unmarked vehicle and approach the green Ford Explorer. Witness 1 observed the individual was wearing a bullet proof vest and had a police star on his belt. The officer yelled commands at the driver of the Ford Explorer, ordering him to put his hands up. Witness 1 reported the driver of the vehicle initially complied, but then suddenly dropped his hands and the Ford Explorer accelerated toward the officers, striking the car that he was seated in. Witness 1 told the detectives he exited the vehicle and ran north on Milwaukee Avenue, as he was afraid for his safety. As Witness 1 was running away, he could still hear the officers yelling at the driver. Witness 1 then heard a single gunshot.

**Witness 2** told detectives that at 2350 hours, on 19 February 2013, he was driving his taxi eastbound on North Avenue, when he observed Police activity on Milwaukee Avenue just north of North Avenue. Witness 2 saw uniformed and plain clothes officers conducting a traffic stop of a green in color SUV. The SUV was driving towards the direction of the police officers, nearly striking them. Witness 2 heard one gunshot before continuing east on North Avenue. Witness 2 later returned to the scene to tell the police what he had witnessed. While talking to the police, Witness 2 observed an ambulance and several additional police officers.

**In a statement to IPRA on 21 February 2013, Officer A** stated that on 19 February 2013, at approximately 2345 hours, he was working with a robbery mission team in conjunction with Area Central detectives. Officer A stated that the robbery team had been assembled due to a pattern of armed robberies that had occurred within the last month. The team had information regarding the description of the subject and the subject's vehicle. Officer A stated he was on duty on 19 February 2013, when he received information that a robbery had been committed in the 800 block of North Avenue. Officer B, who was on the robbery team, spotted the subject's vehicle going westbound on North Avenue and notified Officer A he was following the subject's vehicle. Officer A stated he was in constant contact with Officer B and proceeded to a location where he

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would be able to intercept the subject. Officer B indicated he was approaching the intersection of North Avenue and Damen Avenue at Milwaukee Avenue as Officer A was driving southbound on Milwaukee Avenue. When the subject's vehicle turned north on Milwaukee Avenue it was directly in front of Officer A's vehicle. He activated his emergency lights and siren and crossed into the path of the subject's vehicle forcing it to stop. He exited his vehicle, drew his weapon, announced his office and instructed the subject to raise his hands. Officer A stated the suspect raised his hands briefly but then lowered them and put the vehicle in reverse striking Officer B's car. The subject then put the car in drive and accelerated toward Officer A. Officer A stated he was in fear for his life and fired his weapon once. The subject's vehicle veered to the right and struck a parked vehicle. Officer A stated he unlocked the subject's vehicle and Officer B removed the subject from the vehicle. He and Officer B took the subject to the ground and handcuffed him. Officer A noticed that the subject was shot and immediately called for an ambulance.

**In a statement to IPRA on 20 February 2013, Officer B** stated that on 19 July 2013, at approximately 2345 hours, he was on duty assigned to the 18<sup>th</sup> District Robbery Mission Team. Officer B stated that while he was on duty he received information that a robbery had just occurred at 880 North State Street. He was given the description of a green Ford Explorer which matched the description of the vehicle that had been used in previous robberies in the area. Officer B stated after he heard the description, he drove north of the incident and spotted the green Ford Explorer. He notified his team members that he was behind the vehicle and continued to follow the subject. Officer B stated he and the green Ford Explorer were traveling north bound on Milwaukee Avenue when Officer A pulled in front of the subject's vehicle causing it to come to a complete stop. Officer B stated he exited his vehicle and approached the driver's side door with his weapon drawn. He and Officer A announced they were police officers and ordered the subject to put his hands up and to exit the vehicle. Officer B stated the subject put his car in reverse and struck Officer B's vehicle. The subject then put his vehicle in drive and headed toward Officer A. Officer B heard a gunshot and then observed the subject's vehicle crash into a parked vehicle. Officer B stated he removed the subject from the vehicle, placed him on the ground, and put handcuffs on him. As Officer B was placing the subject on the ground he noticed the subject was shot.

**In a statement to IPRA on 20 February 2013, Officer C** stated that on 19 February 2013, at approximately 2345 hours, she was on duty assigned to the Detective Division Robbery Unit. Officer C stated she was in the area of 2004 West North Avenue looking for the vehicle that was used in several robberies in the area. Officer C had received previous information that the vehicle used in the robberies was a green Ford Explorer. Officer C received a flash message from Officer B indicating that he had spotted a vehicle matching the description of the one that was used in the robberies. Officer C spotted the green Ford Explorer being followed by Officer B's covert vehicle and made a turn that put her directly behind Officer B's vehicle. The Ford explorer was stopped by a squad car and Officer B pulled up directly behind the subject's vehicle as Officer C pulled up directly behind Officer B. Officer C stated as she was getting out of her car she heard Officer A and Officer B yelling to the subject to "Put his hands up." Officer C

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then observed the Ford Explorer back up and then move forward. Officer C heard a gunshot but did not know if it was the police or the subject who had fired the shot. Officer C used her radio to alert the dispatcher that shots had been fired. Officer C witnessed Officer A and Officer B take the subject from his car and handcuff him. Officer C observed the subject was shot and subsequently called for an ambulance.

**In a statement to IPRA on 20 February 2013, Officer D** stated that he and his partner were on duty on 19 February 2013, at 2345 hours, when they received information that a green Ford Explorer was involved in a robbery. Officer D observed the green Ford Explorer stopped with an unmarked vehicle behind it. Officer D and his partner activated their lights, pulled along side and slightly behind the vehicle, and exited their squad car. Officer D related the other officers on the scene had exited their police vehicles and drawn their weapons. The Officers were shouting instructions to the driver of the green Ford Explorer when the driver put the car in reverse and hit the police car behind him. Officer D stated after the green Ford Explorer hit the vehicle behind it, it then lurched forward towards Officer A. At that time, Officer D heard a gunshot. Officer D stated his attention was diverted by a subject who was simultaneously fleeing the scene on foot, and that Officer D was pursuing this subject as the shooting was unfolding. Officer D explained it was determined that the subject, now known as Witness 1, was a nearby witness who was fleeing out of fear, and not a person connected to the suspect in this event.

**In a statement to IPRA on 20 February 2013, Officer E** stated that he was on duty with his partner Officer D on 19 February 2013, at 2345 hours, in the area of North Avenue and Damen Avenue. Officer E stated he and his partner were traveling eastbound on North Avenue at Damen Avenue when they heard sirens and noticed police lights on Milwaukee Avenue. He and his partner turned onto Milwaukee Avenue from North Avenue and saw an unmarked Ford Fusion parked, with its blue lights activated, in front of a green Ford Explorer. Officer E stated they also noticed a brown in color, four door vehicle parked behind the green Ford Explorer. Officer E stated he and his partner parked their squad car and exited it with their guns drawn so that they could assist the plain clothes officers. They heard the plain clothes officers giving verbal commands to the driver of the green Ford Explorer. The officers repeated "Let me see your hands." The driver of the green Ford Explorer put the car in reverse and struck the brown four door vehicle behind it. The driver of the green Ford Explorer then put the car in drive and struck the car in front. As the subject drove forward, Officer E stated he heard a popping noise but did not realize that it was a gun shot. Officer E stated after the green Ford Explorer hit the second car it came to a stop and two of the plain clothes officers pulled the driver out of the car and placed him on the ground.

**In a statement to IPRA on 20 February 2013, Witness 1** stated that on 19 February 2013, around midnight, he and his roommate, (Roommate), drove to the Walgreens located on the corner of Milwaukee Avenue, Damen Avenue and North Avenue. Witness 1 stayed in the car while (Roommate) went into Walgreen's. Witness 1 stated he observed a police car with its lights on driving toward (Roommate's) car. When he looked closer he observed that an SUV was behind the car he was in and there was

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another marked police vehicle alongside the SUV. Witness 1 stated that he observed 2-3 police officers get out and approach the SUV with their guns drawn, yelling “get out of the car.” The driver raised his hands and the SUV rolled backwards, hitting the car that was behind it. The driver then “floored it” and the SUV struck the car that Witness 1 was in. Witness 1 stated when he observed the officers approaching the SUV with their guns drawn he exited the vehicle and ran around the Walgreen’s building. Witness 1 ran until he heard officers telling him to stop. Witness 1 related he never heard any gunshots.

**In a statement to IPRA on 20 February 2013, Witness 2** stated that on 19 February 2013, he was driving a cab and stopped at the intersection of North Avenue, Damen Avenue and Milwaukee Avenue. Witness 2 stated that while he was stopped he noticed a marked police SUV with its emergency lights on, and a dark colored SUV between the police SUV and another vehicle. He observed the dark SUV back up and he heard metal crunching. He then heard a single gunshot. Witness 2 turned the corner to get away from any possible gunfire and noticed the dark colored SUV move forward and then stop. Witness 2 continued to drive from the area, and did not return until some time later in the evening. When Witness 2 returned, he observed the police were still there and informed an officer he had witnessed the event. He concluded his statement by stating he did not observe anyone with a gun and that he did not see anyone fire a gun.

The **Tactical Response Report completed by Officer A** documents that he discharged his firearm at Subject 1 after Subject 1 failed to follow verbal direction and after Subject 1 used his vehicle to attempt to cause death or great bodily injury.

The **Tactical Response Report completed by Officer B** documents that he performed a take down and emergency handcuffing after Subject 1 failed to follow commands and after Subject 1 used his vehicle to attempt to cause death or great bodily injury.

The **Tactical Response Reports completed by Officers D and E** document that they were present when Subject 1 used his vehicle to attempt to cause death or great bodily injury, but that they did not use any force.

A report from the **Illinois State Police (ISP) Division of Forensic services dated 14 March 2013** documents that Officer A’s Springfield Armory, model XD-45 Tactical, .45 caliber semiautomatic pistol was test fired and found to be in proper firing condition. Further testing revealed the expended shell casing recovered at the scene of this event was fired from Officer A’s weapon.

**In-car video** obtained from vehicle #6447, which was occupied by Officers D and E does not contain any footage of alleged incident.

A review of the **Police Observation Device (POD 2041)** located at 1 W. Chicago Avenue was conducted. The POD did not capture any of the incident on camera.



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Surveillance Videos obtained from the **CTA Blue Line Stations** at 1588 N. Damen and 1900 N. Western were viewed; they did not contain any footage relevant to the investigation.

Surveillance Video obtained from “The Tavern” restaurant located at 1958 W. North Avenue did not contain any footage relevant to the investigation.

Surveillance Videos obtained from the cameras outside of **Walgreen’s Pharmacy**, located at 1601 N. Milwaukee, did not contain any footage relevant to the investigation.

Video obtained from the **North Community Bank**, located at 1555 N. Damen, did not capture any footage relevant to the investigation.

A **canvass** conducted in the vicinity of the incident at 1601 N. Milwaukee Avenue failed to produce any witnesses to the police involved shooting.

The **OEMC recordings** contain calls to 911, as well as CPD radio transmissions. Analysis of the calls indicates that on 19 February 2013, a Subway restaurant was robbed. The dispatcher notified Unit 1833R and provided a description of the subject and his vehicle. An officer in a covert vehicle observed a vehicle matching the description and requested assistance. An officer on scene reported shots were fired, and that the subject was now in custody. An ambulance was subsequently requested.

The **CFD Ambulance Report** documents that Subject 1 was transferred to John H. Stroger Jr. Hospital and received treatment for a gunshot wound to the left arm.

**Medical records** document that Subject 1 was treated for a through and through gunshot wound to the left arm, and was released into police custody.

**Evidence Technician Photographs** depict Subject 1, his vehicle, the recovered evidence, and the scene of this incident.

As of the date of this report, Subject 1’s criminal trial is still pending in court.

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**CONCLUSION AND FINDING:**

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

- A. "A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:
  - 1. to prevent death or great bodily harm to the sworn member or to another person, or;
  - 2. to prevent an arrest from being defeated by the 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 deadly weapon, or;
    - c. otherwise indicated 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 conditions of CPD's deadly force policy. All of the available evidence, to include observations made by independent civilian witnesses, corroborates the statements made by Officer A. Officer A's actions were justified in that he fired one gun shot into the driver's side of Subject 1 vehicle as he drove towards him and his fellow officers, placing Officer A in imminent fear of death or great bodily harm.