

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1057748/U# 12-37

**INVESTIGATION**

**NUMBER:** Log #1057748/ U#12-37

**INVOLVED**

**OFFICER:** “Officer A” (Chicago Police Officer); Male/Asian Pacific Islander; 46 years old; On- Duty; Civilian Dress; Year of Appointment – 1997

**OFFICER’S INJURIES:** None Sustained.

**SUBJECT:** “Subject 1”; Male/Black; 22 years old

**SUBJECT’S INJURIES:** Gunshot wound to the left hip.

**INITIAL INCIDENT:** Street stop during an assigned Robbery Mission.

**DATE/TIME OF INCIDENT:** 13 October 2012, approximately 0200 hours.

**LOCATION:** 6721 South Campbell Avenue, Chicago, Illinois, 60629

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**SUMMARY OF INCIDENT:**

On 13 October 2012, Officer A, and Officer B, assigned to Beat #865, were on patrol in an unmarked Chevy Tahoe. The officers were working a robbery mission due to the high number of robberies in the area in which witnesses described black males as being involved in the recent robberies. The officers were driving westbound on 67<sup>th</sup> Street when they observed three black males walking northbound on Campbell and then westbound on 67<sup>th</sup> Street. Officer A drove the unmarked Tahoe into the eastbound lanes of 67<sup>th</sup> Street and stopped. Officer A called for the three black males to come towards the squad car. Two of the individuals proceeded to walk towards the unmarked Tahoe and the third individual, now known as Subject 1, backed up and fled eastbound and then southbound on Campbell. Officer A exited the unmarked Tahoe and pursued Subject 1 on foot. Officer B exited the passenger's side of the unmarked Tahoe and ran around to the driver's side of the unmarked Tahoe and entered. Officer B reversed the squad car and then began to attempt to pursue Subject 1 in the squad car. Subject 1 continued to run southbound and then turned east in the first alley on Campbell from 67<sup>th</sup> Street. Subject 1 stopped just before the north/south T-alley, turned towards Officer A and pointed a semi-automatic pistol in Officer A's direction. Officer A stopped and fired three rounds in the direction of Subject 1. Subject 1 then turned and ran south down the T-alley and briefly out of Officer A's view. Officer A then observed Subject 1 running south in the alley between South Campbell and South Artesian Avenue. Officer A then fired two more rounds at Subject 1 when Subject 1 turned back towards him a second time in the alley at approximately 6721 South Campbell. Subject 1 fell to the ground and was placed into custody by Officer A and Officer B. The officers learned that Subject 1 had been shot in the left hip. The officers initially were unable to locate a firearm on Subject 1. The officers searched the area and subsequently located a semi-automatic pistol in the backyard of XXXX S. Campbell, which is Subject 1's residence.

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**INVESTIGATION:**

In the **Case Supplementary Report**, completed under RD #HV516073 by CPD Detective 1 and CPD Detective 2, Officer A stated that he was on patrol with his partner, Officer B, and assigned to a robbery pattern in the area. Both officers were working in civilian dress and driving an unmarked Chevy Blazer. Officer A stated that he was driving and Officer B was the passenger. Officer A stated that they observed three black males walking northbound on Campbell and then westbound on Marquette Avenue. When Officers A and B went to conduct a field interview of the three subjects, two of the subjects approached the officers while the third subject, now known as Subject 1, fled the scene on foot as he grabbed his waistband. Officer A exited the vehicle, told Subject 1, "Stop police," and chased Subject 1 on foot southbound on Campbell and then eastbound in the south alley of Marquette Avenue. Officer A stated that Subject 1 then pointed a handgun at him (Officer A) with his right hand. Officer A stated that, in fear of being shot, he then fired three gunshots at Subject 1 as Subject 1 continued to flee eastbound in the alley. Officer A stated that Subject 1 then fled southbound in the east alley of Campbell with him (Officer A) still in pursuit. Officer A stated that Subject 1 again turned towards him (Officer A) and pointed a handgun at him (Officer A). Officer A stated that he then fired two more gunshots at Subject 1. Subject 1 fell to the ground at 6725 S. Campbell after being shot in the left hip. Officer A, with the assistance of Officer B, placed Subject 1 into custody. Officer A stated that he and Officer B located the 9mm handgun that Subject 1 had possessed lying in the gangway at XXXX S. Campbell. Officer A stated that after being mirandized and before being treated in the ambulance, Subject 1 told Officers A and B that he was sorry for what had happened.

In the **Case Supplementary Report** completed under RD #HV516073 by CPD Detective 1 and CPD Detective 2, Officer B stated that he was seated in the passenger side of the police vehicle while Officer A was driving. Officer B stated that they were assigned to a robbery pattern in the area of incident when they attempted to conduct a field interview with three individuals at 2501 W. Marquette. Upon stopping to conduct the interview, two of the subjects complied, but the third subject, now known as Subject 1, fled the scene on foot. Officer B stated that Officer A pursued Subject 1 on foot while he (Officer B) exited the passenger's side of the police vehicle and entered the driver side of the police vehicle. Officer B stated that he then pursued Subject 1 with the police vehicle as Subject 1 ran southbound on Campbell. Officer B stated that he then heard 2-3 gunshots. Officer B stated that Subject 1 then fled southbound in the east ally of Campbell and Officer B heard 2-3 more gunshots. Officer B stated that, when he arrived at the T-alley, he observed Subject 1 fall to the ground. Officer B stated that a search of Subject 1 revealed no handgun. Officer B stated that he assisted Officer A with handcuffing Subject 1. Officer B stated that he and Officer A then located and secured Subject 1's handgun in the gangway at XXXX S. Campbell.

The **Arrest and Case Reports** completed under RD# HV516073 indicate that Subject 1 was placed into custody after Subject 1 pointed a Smith & Wesson semi-automatic handgun at Officer A. Subject 1 was charged with Aggravated Assault/Officer/Firearm and Aggravated U. U. W. of a Peace Officer.

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Officer A's **Tactical Response Report** indicates that he fired his weapon five times at Subject 1 after Subject 1 became an assailant and pointed a 9MM semi-automatic handgun at Officer A.

Officer A's **Officer's Battery Report** indicates that the manner of attack used against Officer A was a gun. The report further indicated that Officer A sustained no injury.

**Chicago Police Department Event Queries #1228701531 and 1228701776** indicates that Beat# 865B reported a foot pursuit at 6720 S. Artesian Avenue. It was also shown that OEMC was notified immediately regarding shots fired by the police at the same location.

Independent Police Review Authority (IPRA) IPRA Investigator A responded to Christ Hospital on the 13 October 2012 in an attempt to interview Subject 1. IPRA Investigator A was unable to interview Subject 1 due to the fact that Subject 1 was being discharged into police custody and was transported to the Area. Doctor A informed IPRA Investigator A that Subject 1 sustained a through-and-through gunshot wound to his left hip.

IPRA Investigators B and C responded to the Chicago Police Department Area Central on 13 October 2012 in an attempt to interview Subject 1. Subject 1 stated that he did not wish to speak to the IPRA and he did not wish to level any charges against any member of the Chicago Police Department.

Attempts to contact Subject 1 by mail, telephone and a personal visit were unsuccessful.

**Crime Scene Processing Reports** indicate that a chrome Smith & Wesson 9MM semi-automatic pistol with no serial number was recovered in the gangway at XXXX S. Campbell Avenue and inventoried under #12739308. Officer A's weapon, a black Springfield Arms XD 45ACP Tactical, .45 caliber semi-automatic pistol, serial number US734534, was inventoried under #12739314. Also recovered at the scene were five expended .45 caliber shells; one unknown caliber fired bullet; one black skull cap; ten 9MM bullets; one magazine; and nine bullets from Officer A's gun.

**Evidence Technician Photographs** depict the location of incident and the recovered evidence.

**The Chicago Fire Department Incident Detail Report** indicates that on 13 Oct 2012, at 0208 hours, paramedics responded to a gunshot victim at 6720 S. Artesian. The paramedics found Subject 1 lying on his stomach and in handcuffs. Subject 1 sustained a gunshot wound to the left hip area. Subject 1 admitted to being involved in an altercation with police. He stated he was resisting arrest. Subject 1 did not clarify when he sustained the gunshot wound. The report further indicated that Subject 1 was transported to Advocate Christ Hospital for treatment.

**Medical Records from Advocate Christ Hospital** indicates that Subject 1 was released to CPD custody at 0457 hours. Records indicate that Subject 1 sustained a gunshot wound to his left hip.

**A canvass** was conducted but no witnesses to the incident were located.

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**The Illinois State Police (ISP) Forensic Science Center Reports** completed in relation to RD #HV516073 indicate that an analysis was conducted on Officer A's weapon, a Springfield Armory, Model XD-45, .45 Auto caliber semiautomatic pistol, serial #US734534, one detachable box magazine and nine Winchester .45 Auto caliber unfired cartridges, five Winchester .45 Auto caliber fired cartridge cases and one fired bullet.

**The ISP Forensic Science Center Reports** completed in relation to RD #HV516073 indicate that an analysis was conducted on the DNA buccal swab standard from Subject 1 and the DNA swabs for the 9MM handgun recovered at XXXX S. Campbell Avenue. The analysis indicated that the human male DNA profile found on the weapon recovered at the scene matches the DNA profile of Subject 1.

In an interview with the IPRA on 12 Apr 2013, Officer A gave basically the same account of the incident as he gave in his statement to CPD Detective 1 and CPD Detective 2. During his interview at the IPRA, Officer A clarified his previous statement noting that, when he and his partner attempted to stop and speak to Subject 1, Officer A observed Subject 1 holding the right side of his waistband. Officer A stated that he also observed the butt of a gun in the right side of Subject 1's waistband. Officer A stated that, during his foot pursuit of Subject 1, he ordered Subject 1 to stop and drop the gun several times. Officer A stated that Subject 1 made a left turn into the T-alley from Campbell and ran eastbound at which time Subject 1 turned around and pointed a handgun at him. Officer A stated that, in fear for his life, he fired three shots at Subject 1. Subject 1 continued to run into an alley and southbound. Officer A said he lost sight of Subject 1 for several seconds. When Officer A made a right turn into the alley to go southbound, Subject 1 again turned and pointed his arm at Officer A. Officer A stated that, in fear for his life he fired two more shots at Subject 1, at which time Subject 1 fell to the ground. Officer A stated that Subject 1 was handcuffed and that is when he observed Subject 1 to have a gunshot wound to his hip area. Officer A stated that after Subject 1 was handcuffed, Officer A did not find Subject 1 to be possession of a handgun<sup>1</sup>. Officer A stated that he did not know Subject 1 had tossed the handgun into yard. Officer A stated that when Subject 1 turned with his right arm pointed toward him (Officer A) the second time, he feared for his life and fired two more shots at Subject 1.

In an interview with the IPRA on 13 Oct 2012, Officer B gave basically the same account of the incident as he gave in his statement to CPD Detective 1 and CPD Detective 2. However, during his interview at the IPRA, Officer B added additional information about the incident. Officer B added that, after he heard the first three gunshots, he heard Officer A say over the radio that there were shots fired by the police. Officer B stated that he then entered the alley and observed Officer A running and making a turn southbound in the alley, at which time he heard two more gunshots. Officer B stated that, after he turned southbound into the alley, he heard Officer A screaming at Subject 1 to show his hands. Officer B stated that Subject 1 was on the ground at approximately 6721 S. Campbell by a garage with his hands under his body. Officer B stated that he also ordered Subject 1 to

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<sup>1</sup> Officer A stated that a handgun was found approximately 20-25 feet from where Subject 1 was shot. Officer A stated that a handgun was found in the rear yard between the garages at XXXX S. Campbell which is also the residence of Subject 1.

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show his hands; Subject 1 did not comply. Officer B stated that he and Officer A turned Subject 1 over and placed handcuffs on him. Officer B stated that Subject 1 told them that he had been shot and Officer A called for an ambulance.

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**CONCLUSION AND FINDINGS:**

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

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

Officer A acted in accordance with the conditions of the Chicago Police Department's deadly force policy. Subject 1 fled on foot and disregarded the verbal commands of Officer A to drop his gun and, instead, pointed the gun at Officer A. Even though Subject 1 had tossed his handgun, and was not in possession of the handgun when he was shot by Officer A, Officer A reasonably believed Subject 1 was still in possession of a handgun when he discharged his firearm at Subject 1. Officer A was in reasonable fear for his life and discharged his firearm to prevent death or great bodily harm to himself.