

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1013572/U #08-02

INVESTIGATION

NUMBER: Log #1013572 / U #08-02

INVOLVED

OFFICER: “Officer A” (Chicago Police Officer); Male/Black; 30 years old;
Off Duty; Plainclothes; Year of Appointment – 2004

OFFICER’S

INJURIES: None.

INVOLVED

SUBJECT: “Subject 1”; Male/Black; 16 years old

INVOLVED

SUBJECT’S

INJURIES: (1) gunshot wound to right buttocks (lodged); and (1) gunshot
wound to left flank (thru-and-thru). Treated at Illinois Stroger
Hospital.

INITIAL

INCIDENT: Person with a Gun

DATE/TIME: 22 January 2008 / 0825 hours.

LOCATION: 314 E. 43rd St.
Beat 214

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SUMMARY OF INCIDENT:

On 22 January 2008, at approximately 0825 hours, Subject 1 entered Wendell Phillips High School located at 244 E. Pershing Rd. Upon entering the school Subject 1 walked through the metal detector and activated the alarm. Security Officer Witness 1 searched Subject 1 and felt “a weapon” (subsequently identified as a gun) near Subject 1’s left hand. Subject 1 ran out of the school. Security Officer Witness 1 and off-duty Officer A, a part-time security officer at the school, chased Subject 1. Subject 1 fled the area and Officer A and Security Officer Witness 1 continued to search for him in Security Officer Witness 1’s personal vehicle. A short while later, Officer A saw Subject 1 standing near the ticket machine inside the Chicago Transit Authority (CTA) station located at 314 E. 43rd St. Officer A approached Subject 1 from behind and ordered him to place his hands in the air. Initially, Subject 1 complied by turning around to face Officer A and raising his hands in the air. Subject 1 then began to walk toward Officer A, who was standing between Subject 1 and the station’s front exit. Officer A walked backwards while repeatedly ordering Subject 1 to stop, but Subject 1 failed to comply. Officer A backed out of the station and onto the sidewalk. Subject 1 then dropped his hands, pushed his jacket aside, and reached for a gun that was in the waistband on the right side of his pants. Officer A ordered Subject 1 to drop the gun, but Subject 1 raised the gun. Officer A then discharged his firearm once at Subject 1, striking him. Subject 1 continued to move toward the exit of the station and Officer A discharged his firearm two more times, striking Subject 1. Subject 1 fell to the ground and was taken into custody. Subject 1’s gun was recovered from the sidewalk in front of the CTA Station.

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INVESTIGATION:

Subject 1 refused to cooperate with this investigation. (Att's 4, 9, 22, 24, 31)

On 22 January 2008, **CPD Detective 1**, went to Stroger Hospital where he attempted to interview Subject 1. After being advised of his constitutional rights, Subject 1 invoked his right to remain silent.

Nurse A then told CPD Detective 1 that Subject 1 told her an account of the incident. Subject 1 told Nurse A that he was at school and the police stopped him. The police then chased him and he then decided to go home. While at the train station, the police told him to stop and put his hands up. Subject 1 then turned away from the police and that is when he was shot. (Att. 41)

In a statement to the **Roundtable Panel** on 22 January 2008, **Security Guard Witness 1** stated that he was working at Wendell Philips High School when Subject 1 entered the school. Subject 1 "set off" a metal detector and was subsequently searched by Witness 1. During the search, Witness 1 felt an unidentified object near Subject 1's left wrist. Witness 1 stated that the object was covered by the sleeve of Subject 1's "hoodie" and jacket. Witness 1 stated that at first he believed the object to be an MP3 Player. Witness 1 felt the object a second time and positively identified it as a gun. Witness 1 announced that Subject 1 was in possession of a gun and Subject 1 ran away. Witness 1 and Officer A chased Subject 1 out of the building. Witness 1 ran to his

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personal vehicle and called 911 to report the incident. Witness 1 then “picked up” Officer A and toured the area looking for Subject 1. Witness 1 drove south on Calumet Ave and then west on 43rd St. Officer A then yelled out, “Stop the car!” Witness 1 then saw that Subject 1 was standing inside the CTA Train Station. Witness 1 heard Officer A repeatedly order Subject 1 to drop the gun, but Subject 1 refused to do so. Witness 1 stated that he saw Subject 1 holding a gun at his waist. Witness 1 stated that he then drove west on 43rd St. when he heard two gunshots. At 43rd and Prairie, Witness 1 made a u-turn and drove east. As he approached the CTA Station from the west Witness 1 saw Subject 1 lying on the ground. Subject 1 also saw a gun on the ground near Subject 1’s head/shoulder area. Witness 1 did not see Officer A fire his gun. (Att. 24)

In a statement to CPD Detective 2 and CPD Detective 3, **Witness 1** stated that he was employed by the Chicago Board of Education as an unarmed civilian security officer for approximately two years. On the day of the incident he was working at Phillips High School at Exit Nine. At approximately 0750 hours, Subject 1 entered the school. According to Witness 1, Subject 1 was involved in a fight in the school lunchroom a week prior to this incident. Witness 1 was working with Officer A and two other female security officers. Witness 1 and Davis were working on the right side of the post and the females on the left side. Upon encountering Subject 1 he noticed that Subject 1’s jacket was unzipped and he had an item in his left sleeve. Witness 1 related that at this point he believed the item could be a PSP game system, because Subject 1 had attempted to enter the school with one in the past. At this time Witness 1 asked Subject 1 what the item in his sleeve was. Subject 1 related that it was his game. Witness 1 felt the item with his

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hands and felt the hammer of a firearm. Witness 1 then grabbed Subject 1's hand with both of his hands, but Subject 1 yanked away. Witness 1 repeatedly yelled "gun!" to alert the others in the area. Subject 1 then jumped over the stairs and ran out the Giles entrance. Witness 1 then called "911" and chased Subject 1 on foot to Pershing Road. Officer A chased Subject 1 on foot east on Pershing Rd. Witness 1 stated he retrieved his personal car and picked up Officer A near the alley Pershing and Giles. Witness 1 and Officer A drove south in the alley between Calumet and King Dr. Officer A called 911 and reported that Subject 1 was running south in the alley. Witness 1 was unable to continue south because another vehicle blocked him. Officer A exited the car and chased Subject 1 on foot. Witness 1 stated that he reversed out of the alley and located Officer A near 4100 S. Calumet. Officer A got back into Witness 1's vehicle and Witness 1 first drove south on Calumet and then east on 43rd St. Officer A then saw Subject 1 in the "EL" station near the fare machine in the northwest corner of the station. Officer A exited the vehicle and approached Subject 1. Witness 1 heard Officer A repeatedly say, "Get on the ground! Drop the gun!" Witness 1 related that Subject 1 had his hand on a gun that was in his waistband. Witness 1 stated that Subject 1 did not drop the gun as ordered. Witness 1 stated that he then drove west on 43rd St. to avoid being in the line of fire. Moments later Witness 1 heard two gunshots. Officer A then told Witness 1 to flag down a marked unit (Beat 275) which was traveling east on 43rd St. Witness 1 saw Subject 1 lying on the ground. Witness 1 also saw a small, silver automatic pistol on the sidewalk. Witness 1 heard Subject 1 say, "I can't feel my legs." (Att. 41)

In a statement to IPRA on 22 January 2008, **Witness 1** stated that on the day of

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the incident he was working as a security officer at Wendell Phillips High School. Witness 1 explained that he was stationed at the metal detectors located near the main entrance. Witness 1 stated that Subject 1 entered the school and when he walked through the metal detectors, he set them off. Witness 1 stated that in accordance with Chicago Public School (CPS) policy, he searched Subject 1. Witness 1 felt an object near Subject 1's left wrist, which was covered by the sleeves of Subject 1's jacket and hoodie. Subject 1 told Witness 1 that the object was a game. Witness 1 stated that he felt what he knew to be the hammer of a gun and grabbed Subject 1's wrist tighter and said out loud, "Man, he's got a gun." Subject 1 then broke free from Witness 1 and ran out of the school through the main entrance. Witness 1 announced that Subject 1 had a gun and he and Officer A chased Subject 1.

Witness 1 chased Subject 1 to the corner of Pershing and Giles. Witness 1 saw Officer A standing on the south side of Pershing Road, looking south in an alley while talking on his cell phone. Witness 1 ran to the school's parking lot and retrieved his personal car. Witness 1 then drove and picked up Officer A. Witness 1 and Officer A then drove around looking for Subject 1. As Witness 1 drove west on 43rd St. Officer A said, "Stop the car!" Witness 1 stopped the car and Officer A got out and approached Subject 1, who was standing inside the "L" station near a vending machine. Witness 1 stated that Officer A and Subject 1 exited the station. Witness 1 drove his car forward until he was almost parallel with Officer A. Witness 1 then saw Subject 1 reaching for his left side in an attempt to pull the gun from the left side of his waist. Witness 1 heard Officer A saying in a loud voice, "Drop the gun!" Witness 1 stated that fearing he may

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be shot he drove towards Prairie Ave. and heard two gunshots. Witness 1 then made a U-turn and drove back to the CTA Station. Witness 1 saw Subject 1 lying on the street with Officer A standing over him. Witness 1 stated that he did not see Officer A or Subject 1 point their guns at each other and that he did not see Officer A shoot Subject 1. (Att. 12)

In a statement to the **Roundtable Panel** on 22 January 2008, **CTA Customer Assistant Witness 2** stated that he was standing inside the Employee Booth when he observed Subject 1 enter the station and walk to the Transit Card Vending Machine. Witness 2 then saw Officer A enter the station, point a gun at Subject 1, and instruct Subject 1 to put his hands in the air. Witness 2 stated that he immediately “dropped to the floor” and locked the door to the booth. Witness 2 stated that he remained on the floor until squad cars arrived and that he did not see Officer A discharge his firearm. (Att. 24)

In a statement to Detectives CPD Detective 2, and CPD Detective 3, CTA Employee **Witness 2** stated that he observed Subject 1 walk to the transfer-card machine located on the west wall of the station. Witness 2 stated he entered the ticket booth located on the east wall. Witness 2 then heard someone repeatedly yell, “Put your hands up!” Witness 2 then observed a tall, unknown black male (NKA Officer A) with a gun in the doorway of the station. Witness 2 dropped to the floor inside the booth. Moments later Witness 2 heard two gunshots. Witness 2 did not move from his position on the floor and did not witness the shooting. Witness 2 remained on the floor and used his CTA Radio to call for police assistance. Witness 2 stated that he remained in the booth

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for approximately five minutes. Witness 2 heard emergency sirens and exited the booth. Witness 2 then saw Subject 1 handcuffed on the ground. Witness 2 stated that he was unaware if Subject 1 was shot because he did not observe any blood. (Att. 41)

In a statement to IPRA on 22 January 2008, **Witness 2** stated that he was inside the CTA station, near the employee booth, when he saw Subject 1 enter the station and walk to the Transit Card Vending Machine. Witness 2 entered the employee booth and saw Officer A enter the station. Officer A repeatedly said to Subject 1, “Put your hands up.” Witness 2 saw Officer A pointing a silver semi-automatic pistol at Subject 1. Witness 2 dropped to the floor and locked the door to the employee booth. Witness 2 stated that he crawled under the desk and radioed the “Control Center.” Witness 2 then heard two “quick” gunshots. About five or six minutes later Witness 2 heard the sound of cars arriving at the station. Witness 2 looked above the desk and saw that it was safe to come out of the employee booth. Witness 2 saw Subject 1 handcuffed and lying on the floor. A short while later an ambulance arrived at the station. Witness 2 did not witness the shooting. Witness 2 only heard the gunshots. (Att. 11)

Detectives CPD Detective 4, CPD Detective 5, and CPD Detective 6, went to Wendell Phillips High School and interviewed Assistant Principal A. Assistant Principal A stated that on 17 January 2008, Subject 1 was suspended for a period of ten days. Subject 1 and two other students were suspended and told not to return to the school until after the Martin Luther King Holiday. Board of Education surveillance cameras recorded the incident inside the school’s checkpoint. (Att. 41)

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The related **Department Reports** (Arrest and Case Reports, TRR, Original Incident Reports) stated that Subject 1 entered Wendell Phillips High School with a handgun concealed under the sleeve and a belt buckle knife concealed in a normal belt buckle. When CPS security discovered the handgun in Subject 1's waist he (Subject 1) ran out of the school with security personnel and off-duty Chicago Police Officer A giving chase. At 314 E. 43rd St., Officer A ordered Subject 1 to put up his hands. Subject 1 refused and instead reached for the handgun in his waistband. Fearing for his life, Officer A discharged his firearm three times, striking Subject 1 twice. Subject 1 was taken into custody and transported to Stroger Hospital by CFD Ambulance #35. Subject 1's handgun and knife were recovered and inventoried. The handgun was a Phoenix Arms, Model #HP22A., .22LR semi-automatic stainless steel handgun. Subject 1's handgun was loaded with nine live rounds. Subject 1 was charged with two counts of Unlawful Use of a Weapon and Aggravated Assault. (Att's 5, 13, 15-17, 26, 33)

Evidence Technician Photographs depicted the CTA Station, school, and the neighborhood. (Att. 40)

Evidence Technician Photographs depicted Subject 1 on a bed at Stroger Hospital. (Att. 46)

The **OEMC PCAD Event Queries** indicate that on 22 January 2008, at 0822 hours, Officer A called "911" from his cell phone and reported that a black male student

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with a pony tail and hoodie ran out of the school with a gun he tried to sneak in. At 0824 hours, Officer A called “911” again and reported that he was southbound in an alley in the vicinity of 4100 S. Calumet and that he was still pursuing a man with a gun. At 0833 hours notification was made that shots were fired by the police at the 43rd St. Green Line Station and an ambulance was requested for the person shot. (Att. 7)

The **Chicago Fire Department’s Ambulance Report** indicates that Ambulance #35 was dispatched at 0831 hours and arrived at 314 E. 43rd St. at 0835 hours. The report indicated that Subject 1 sustained a gunshot wound to his abdomen. Subject 1 was transported from the scene to Stroger Hospital at 0845 hours. (Att. 21)

Stroger Hospital’s Medical Records indicated that Subject 1 arrived in the hospital’s emergency room at 0905 hours. Subject 1 sustained gunshot wounds to his right flank, back, and right buttock. Subject 1 informed hospital personnel that he had been shot by the police. Subject 1 would not divulge much history regarding his injuries. X-rays showed that one fired bullet was lodged in the posterior of Subject 1’s right hip. (Att. 32)

In a report from the **Illinois State Police Division of Forensic Services** dated 29 July 2008, Officer A’s firearm, a Beretta Model 92D 9mm, was examined and found to be in firing condition. Subject 1’s firearm, a Phoenix Arms Model HP222 22 Caliber, was also examined and found to be in firing condition. Examination of the three recovered expended casings determined that they had been fired from Officer A’s

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firearm. (Att. 30)

In a report from the **Illinois State Police Division of Forensic Services** dated 20 June 2008, examination of Subject 1's firearm, its nine live cartridges, and its magazine, revealed no latent impressions suitable for comparison. (Att. 29)

In a statement to the **Roundtable Panel, Officer A** provided an account of the incident that was consistent with the Summary of Incident. However, Officer A did not relate that Subject 1 walked toward him. (Att. 24)

In a **statement to CPD Detective 2 and CPD Detective 3, Officer A** stated that he worked security for the Board of Education when he is off-duty. Officer A stated that on the day of the incident he was manning security check point nine inside Phillips High School with CPS Security Officer Witness 1. Both were conducting searches of male students who activated the metal detector at the checkpoint. The metal detector was activated by a student NKA Subject 1. Witness 1 conducted a protective pat-down search of Subject 1 and shouted "gun!" Subject 1 ran east from the checkpoint, down stairs, and exited the school through its east door. Officer A and Witness 1 chased Subject 1. Officer A used his cell phone to notify OEMC of his status and the direction of Subject 1's flight. During the chase Officer A lost sight of Subject 1 in the surrounding neighborhood. Witness 1 and Officer Subject 1 then toured the area in Witness 1's vehicle in an attempt to locate Subject 1. Officer A subsequently observed Subject 1 at the 43rd Street CTA Green Line Station. Officer A exited Witness 1's vehicle and

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approached Subject 1 in the CTA Station near the vending machine on the first floor. Officer A announced his office with his gun drawn. Officer A gave Subject 1 verbal commands to put his hands up in the air. Subject 1 disregarded the verbal commands and reached for the right side of his waistband. Officer A saw Subject 1 place his hand on a chrome handgun in his waistband. According to Officer A, he repeatedly told Subject 1 to drop the gun and put his hands up. Subject 1 then attempted to draw the handgun. Fearing for his safety, Officer A fired one shot at Subject 1, who walked around a beam located northwest of the station's doorway. Subject 1 kept his hand on the gun in his waistband and Officer A fired two or three additional shots at Subject 1 as Subject 1 continued toward the station's doorway. Officer A then observed Subject 1 fall to the ground and his chrome handgun fell to the sidewalk next to him. Officer A stopped firing his gun and motioned for Witness 1, who pulled in front of the CTA Station. Officer A then instructed Witness 1 to notify the police. At this time, Witness 1 flagged down Beat 275. Subject 1 was placed into custody, medical attention was requested, and Subject 1's gun was recovered. (Att. 41)

In a statement to IPRA on 17 November 2008, **Officer A** stated that on the day of the incident he was off-duty, working as a security supervisor at Wendell Phillips High School. Officer A was alerted that Subject 1 attempted to enter the school with a firearm when security officer Witness 1 searched Subject 1 after the metal detector's alarm went off. Witness 1 yelled "gun!" and Officer A attempted to grab Subject 1, but Subject 1 ran. Officer A chased Subject 1, and at the same time used his cell phone to call "911." Officer A informed the call-taker that he was chasing Subject 1, who had a gun, and

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provided Subject 1's description. Officer A chased Subject 1 in a south-southwest direction from the school, through alleys and down several streets. Witness 1 caught up to Officer A at approximately 40th and Giles in his personal vehicle. Officer A got into the front passenger seat of Witness 1's vehicle and they continued to pursue Subject 1 until they eventually found him running south towards 43rd St. Officer A got out of Witness 1's car and chased Subject 1 on foot and into the CTA station on 43rd St.

Officer A stated that he entered the station and saw Subject 1 facing a transfer machine. Officer A ordered Subject 1 to drop his gun, at which point Subject 1 turned and faced him. Subject 1 attempted to exit the station and Officer A again ordered him to drop the gun. Subject 1 reached into his waistband and pulled the gun out. Officer A, fearing that Subject 1 would shoot him, discharged his firearm once at Subject 1, striking him in the abdomen area. Subject 1 continued to attempt to leave the station and Officer A repeatedly ordered him to drop the gun, which he held in his right hand. Officer A backed out of the station as Subject 1 approached the exit. Subject 1 refused to comply with Officer A's orders to drop the gun. Subject 1 continued to exit the station while still holding his gun and Officer A discharged his firearm two more times. Subject 1 fell to the ground and threw his firearm to the side. Officer A approached Subject 1 and instructed him not to move. A short while later other security officers from the school and a squad car arrived. Subject 1 was taken into custody and an ambulance was requested. (Att. 36)

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'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 involved the infliction, threatened infliction, or threatened use of physical force like 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's actions met the requirements of the Department's deadly force policy. Officer A and the witness, Security Officer Witness 1, provided separate and consistent accounts of the incident, that Subject 1 was in possession of a gun and that he failed to comply with their orders. Officer A stated that inside the CTA Station Subject 1 refused to drop the gun, and instead, pulled it from his waistband and continued to hold it in his right hand as he approached Officer A and the exit. Fearing for his safety, Officer A discharged his firearm at Subject 1. Officer A feared for his safety after Subject 1

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attempted to bring a concealed firearm into the high school, ran when it was discovered that he had a firearm, and then held it in his hand as he repeatedly failed to comply with any of Officer A's commands. Officer A reasonably believed that Subject 1 would endanger human life or inflict great bodily harm unless arrested without delay.