

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1019341/ U# 08-30

INVESTIGATION

NUMBER: Log#1019341 / U# 08-30

OFFICER

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 32 years old;
On-Duty; Full Uniform; Year of Appointment – 2002

OFFICER’S

INJURIES: None

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

SUBJECT’S

INJURIES: One (1) Fatal Gunshot Wound to the right side lodged near the heart

INITIAL

INCIDENT: Shots Fired by Unknown Offenders

DATE/TIME: 22 August 2008, 1956 hours

LOCATION: 651 East 89th Street, in the alley
Beat 633

SUMMARY OF INCIDENT AND INVESTIGATION:

IPRA Investigator A responded to the police involved shooting on 22 Aug 08, at approximately 1956 hours. IPRA Investigator A was a participant of the Roundtable Panel regarding the preliminary investigation of the police involved shooting. IPRA Investigator A submitted a **report** of the following interviews:

CPD Detective B, Area 2 Violent Crimes gave the following synopsis of the police involved shooting to the Roundtable Panel: On 22 August 2008, Officer A and his partner, Officer B, were working Beat 634. The officers were in the vicinity of 89th and Cottage Grove when they monitored a broadcast of "Shots Fired" in the area of 89th and St. Lawrence. Officer A and Officer B traveled westbound on 87th Street and then turned onto St. Lawrence. The officers came upon a group of citizens who directed the officers to go eastbound on 89th Street. Upon arrival on 89th Street, the officers observed a group of black males walking eastbound near Langley Ave. Officer A and Officer B stopped and exited their vehicle to conduct a street stop. At that time, one of the black males, now known to be Subject 1, broke away from the group and fled on foot. Subject 1 ran southbound on Langley Ave. and then westbound into an alley with Officer A and Officer B in pursuit in the squad car. Once the squad car entered the mouth of the alley, Subject 1 removed a firearm from his waistband. Subject 1 placed his hand on the top of a fence and pointed the firearm in the direction of the squad car. The squad car stopped and passenger Officer A opened the squad car door and while seated in the vehicle fired two rounds in the direction of Subject 1. Simultaneous to Officer A firing in the direction of Subject 1, Subject 1 jumped up and went over the fence and fell to the ground. The firearm, held by Subject 1 dropped to the ground. Officer A handcuffed Subject 1, and secured the recovered firearm. Officer B radioed for EMS and stood guard over the firearm. CFD transported Subject 1 to Christ Hospital where he was pronounced by Doctor A at 2034 hours. (Att. 5)

Officer B gave the following account of the incident to the Roundtable Panel: Officer B with partner, Officer A assigned to Beat 634 and were touring the vicinity of 87th and Cottage when they responded to an OEMC broadcast of "Shots Fired" in the area of 87th and St. Lawrence. When the officers arrived in the vicinity of 89th and Langley, Officer B observed a large group of black males walking eastbound on 89th Street toward Langley. Officer B stopped the squad car at 8902 S. Langley and one of the black males, now known to be Subject 1 wearing black clothing, fled on foot from the group. Officer B and Officer A pursued Subject 1 in the squad car. Subject 1 ran westbound in the alley and pursued by Officer A and Officer B in the squad car. Beat 633 arrived on the scene and took second position behind the squad car of Officer B and Officer A. Officer B then heard Officer A yell, "Gun." Officer B observed Subject 1 grab onto the top of the fence with one hand and point a handgun at the officer with the other hand. Officer A still in the sitting position in the passenger seat of the squad car fired two shots at Subject 1, striking him. Subject 1 continued over the fence and fell to the ground and his handgun fell several feet from him. Officer A secured Subject 1 and Officer B radioed for EMS and notified OEMC of the incident. (Att. 5)

Officer A gave the following account of the incident to the Roundtable Panel: Officer A stated that he and Officer B were working Beat 634 and responded to an OEMC simulcast of "Shots fired" in the vicinity of 89th and St. Lawrence. When the officers arrived in the area of

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8902 S. Langley, they observed a large group of black males. As the officers prepared to exit their squad car to conduct a street stop, one of the black males, now known to be Subject 1, fled on foot southbound as Beat 633 arrived on the scene. Officer A and Officer B gave chase in their squad cars and turned into the alley after Subject 1. Officer A then observed Subject 1 produce a weapon from his front waistband. Officer A yelled "Gun!" Subject 1 placed his left hand on the top of the fence and as he went over the fence, Subject 1 turned and pointed the firearm at the officers. Officer A while inside the squad car on the passenger seat fired two shots striking Subject 1. Subject 1 continued over the fence and fell to the ground. The weapon Subject 1 held in his hand fell several feet from his body. Officer A secured Subject 1, secured Subject 1's firearm and EMS was called to the scene. (Att. 5)

CPD Detective A reported to the Roundtable Panel that he went to Christ Hospital and interviewed Doctor A. Doctor A informed CPD Detective A that Subject 1 sustained a gunshot wound to the right side of his torso and the bullet lodged near the heart area. Doctor A pronounced Subject 1 on 22 Aug 08, at 2034 hours. A gunshot residue test was performed on Subject 1's hands. (Att. 5)

Acting ADS Commander A was the on call Deputy on 22 Aug 08 and submitted a **report** regarding the police involved shooting. Acting ADS Commander A essentially reported a similar account of what was reported to him as indicated in the report from IPRA Investigator A. In addition, Acting ADS Commander A indicated in his report that during the walk-through conducted separately with Officer A and Officer B, the officers provided similar accounts of the incident. Both accounts provided by the officers were consistent with the physical evidence. Acting ADS Commander A further indicated in his report that Officer A and Officer B acted properly, and in compliance with all Department orders. The use of force was lawful and consistent with Department directives. (Att. 4)

In a **statement** with CPD Detective B and in the presence of Assistant State's Attorney A, on 23 Aug 08, **Witness 1** stated that he is sixteen-years-old (16) and attends C.V.S. High School and he lives near 90th and Langley. Witness 1 further stated that he was walking on Langley from the bus and came upon a group of eight "guys" that were also walking on Langley. The group of "guys" were unknown to Witness 1 and they continued to walk in front of him. When Witness 1 was near 89th Street, he observed a blue and white squad car. The group of "guys" in front of him ran and he ran to the southwest side of 89th and Langley. Witness 1 then observed one of the "guys" from the group run south on Langley ahead of the squad car. The squad car turned right, going southbound on Langley. The "guy" then ran in the alley and the squad car also turned into the alley following behind the "guy." Witness 1 continued to walk westbound on 89th Street when he heard two (2) shots fired from the direction of the alley. Witness 1 then went inside the third apartment building from the corner. Witness 1 did not see the "guy" or the officers after they went in the alley. Witness 1 only heard the two shots fired and was not a witness to the actual shooting. (Atts. 49-50).

The **Original Case Incident Report of Aggravated Assault of a Police Officer with a Handgun, Case Supplementary Report, TRR, Officer's Battery Report and Arrest Report** of **Witness 1** indicate that Officer A and Officer B were working Beat 634 and responded to a call of "Shots fired" in the area of 87th Place and St. Lawrence. Officer A and Officer B were

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directed by citizens to a group of black males walking eastbound on 89th Street. Subject 1 observed the officers and ran into an alley with a firearm in his hand. Officer A and Officer B gave chase in the squad car and also turned into the alley that Subject 1 in. Subject 1 then turned and pointed the firearm at the officers who were seated inside the squad car. Officer A while still inside the squad car fired two rounds through the open squad car window. Subject 1 fell to the ground and dropped the handgun. Officer A and Officer B discovered that Subject 1 had been injured and immediately notified OEMC and called for EMS. Subject 1 was transported to Christ Hospital where he was pronounced dead at 2034 hours. Subject 1's handgun, a Cal Tech, model P-11, 9mm, Luger semiautomatic pistol, serial # 114199, was recovered and inventoried. Additional units on the scene observed the subject, now known to be Witness 1, who had been walking with Subject 1, run inside the building at 651 E. 89th Street. Officers secured the building and located Witness 1 in the hallway. Witness 1 was alone in the building and admitted that there was no one else with him. Witness 1 also admitted that he did not live at 651 E. 89th Street and a handgun, a Colt, model Automatic, 25 caliber Auto semiautomatic pistol, serial # OD85491, was recovered in close proximity to Witness 1. (Atts. 9-12, 44 & 62)

The **Case Supplementary Report of Justifiable Homicide** of Subject 1 gave essentially a similar account of the incident as indicated in the Original Case Incident Report of Aggravated Assault of a Police Officer with a Handgun. In addition, the report details the canvass conducted by detectives of Area 2. The majority of the persons interviewed by detectives were either not home at the time of the incident or they did not see or hear anything. Several persons on the canvassed route reported that they heard two shots fired and others heard one or three shots fired. (Atts. 43 & 51)

Photographs of the **crime scene** taken by Forensic Investigators show the chain link fence and garbage cans behind 651 East 89th Street. Marker #1 shows an expended shell from Officer A's firearm near two garbage cans. Marker # 2 shows the firearm held by Subject 1 when he fell over the chain link fence. Marker # 3 shows where Subject 1 landed on the ground. (Att. 27)

The **OEMC Event Query and Audio Transmissions** indicate that several individuals called "911" and reported seeing a group of boys running and then hearing two shots fired. A caller reported a police car in the alley behind 8902 S. Langley. The shots fired by the police are reported and the EMS and supervisor respond to the scene of 651 E. 90th Place. (Atts. 13 & 48)

A **canvass** of the vicinity of 651 E. 89th Street was conducted and was met with negative results of finding witnesses to the police involved shooting. (Att. 22)

The **Chicago Fire Department Ambulance Report** indicates that Paramedics responded to a gunshot victim at 651 E. 89th Street. Upon arrival, the Paramedics were told by police that the unknown person, now know to be Subject 1, was shot by police. Subject 1 was found lying on his back in a gangway with a handgun nearby. Subject 1 was unresponsive with a gunshot wound entrance under the right armpit, mid-chest. The exit wound appears to be center of back and no other wounds were noted. Subject 1 vitals were at 0 when he was transported to Christ Hospital. (Att. 19)

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The **medical records** of Subject 1 from Christ Hospital show that he was admitted on 22 Aug 08, at 2027 hours. Subject 1 was brought in on a backboard with CPR in progress. Subject 1 was hooked up to a monitor and CPR continued with 0 pulses. Subject 1 was cold and clammy and was pronounced by Doctor A on 22 Aug 08, at 2034 hours. The report also indicates that Subject 1 sustained a gunshot wound to the right flank. (Att. 25)

The **Medical Examiner's report** indicates that Subject 1 sustained an entry gunshot wound on the right chest. The wound coursed from right to left, and upward. Examination of the skin about the wound of entrance reveals no evidence of close range fire. This wound course contributed to bleeding within the right and left chest cavity each totaling approximately 750cc of liquid blood. A deformed medium caliber copper jacketed hollow point bullet was recovered within the musculature of the left pectoralis muscle. The toxicology result of Subject 1's blood was classified as negative for alcohol, marijuana, and cocaine. The cause of Subject 1's death is a gunshot wound to the chest. The manner of Subject 1's death is homicide. (Att. 39)

A **report from the Illinois State Police** ("ISP"), Division of Forensic Services, dated 16 Oct 08, indicates that Officer A's 9mm Sig Sauer Model P226; Serial # U593077; semiautomatic pistol was found to be in firing condition and test fired. The firearm displays rifling characteristics of six lands and grooves with a right hand twist.

The report further indicates that the Cal Tech, model P-11, 9mm, Luger semiautomatic pistol, serial # 114199, was found to be in firing condition and test fired. The Cal Tech, model P-11 displays rifling characteristics of six lands and grooves with a right hand twist.

The report also indicates that the Colt, model Automatic, 25 caliber Auto semiautomatic pistol, serial # OD85491 was received in multiple pieces. The firearm was assembled, found to be operable and test fired. The firearm displays rifling characteristics of six lands and grooves with a left hand twist. (Att. 42)

A **Civil Suit** was filed on 15 Apr 09 by [Name Withheld] individually and as Special Administrator of the Estate of Subject 1 now deceased against the City of Chicago and Chicago Police Officer A and Officer B. The civil suit alleged that Officer A shot Subject 1 without lawful cause or justification. The civil suit further alleged that Officer A's wanton actions caused Subject 1's untimely wrongful death. (Att. 52)

An emergency motion was filed and granted in the United States District Court for the Northern District of Illinois, Eastern Division on 13 April 2011, to impound and preserve evidence namely one City of Chicago garbage can with serial number 152526. The motion further details that the City of Chicago garbage can revealed an entry and exit bullet hole in photographs taken of the crime scene on 22 August 2008. The City of Chicago garbage can with serial number 152526 was inventoried and preserved on 26 April 2011 under Inventory number 12300890.

The Illinois State Police Forensic Science Center at Chicago did not conduct an examination of the City of Chicago garbage can with serial number 152526. Based on the length of time between the incident on 22 August 2008 and the time the garbage can was inventoried on

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26 Apr 11, an examination of the City of Chicago garbage can with serial number 152526 was not conducted by the Illinois State Police Forensic Science Center at Chicago. (Att. 72)

Officer A and Officer B provided statements to the IPRA on 03 Feb 11 and 15 Feb 11 respectively, and their accounts were essentially consistent with the accounts they provided to the Roundtable Panel and to Area 2 Detectives on 22 Aug 08. (Atts. 55-56, 58-59)

CONCLUSION AND FINDING:

This investigation found that Officer A's use of deadly force 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."

Officer A and Officer B were on routine patrol when they monitored a simulcast of "Shots fired" in the vicinity of 89th and St. Lawrence. Officer A and Officer B responded to the call and observed a group of black males in the vicinity of where the shots were fired. When Subject 1 observed the officers, he broke from the group and fled on foot. Officer A and Officer B pursued Subject 1 in their vehicle. Subject 1 ran in the alley behind the building at 651 East 89th Street and the squad car Officer A and Officer B were in followed him. Once the squad car entered the mouth of the alley, Subject 1 removed a firearm from his waistband and pointed the firearm at the officers who were in full uniform and in a marked squad car. The squad car stopped and passenger, Officer A, while seated in the squad car fired two rounds through the open passenger window in the direction of Subject 1. Simultaneous to Officer A firing two rounds in the direction of Subject 1, Subject 1 placed his left hand on top of the fence, pointed the firearm he held in his right hand, in the direction of the officers, jumped up, continued to point the gun in the direction of the officers, went over the fence and fell to the ground. The weapon Subject 1 held in his hand fell several feet from where he landed on the ground. The Medical Examiner noted that Subject 1 sustained an entry gunshot wound on the right chest area. The wound coursed from right to left and upward and the bullet lodge within the musculature of the left pectoralis muscle. Examination of the skin about the wound of entrance revealed no evidence of close range fire. Several ear witnesses called "911" and reported that they heard gunshots in the vicinity of 8902 S. Langley. Witness/arrestee Witness 1 observed Subject 1 flee from the group of "guys" he was with and run in the alley with Officer A and Officer B in vehicle pursuit. Shortly after the squad car traveled into the alley, he heard two shots fired. The

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accounts provided by Officer A and Officer B, witness/arrestee Witness 1, the Medical Examiner's report, and the calls to "911 are consistent with the crime scene and forensic evidence. Without uncertainty, Officer A's actions were consistent with Department policy to stop assailant Subject 1 from fleeing into the community while armed and dangerous. Therefore, based on the totality of the circumstances surrounding this incident, Officer A was justified in the use of deadly force against Subject 1.