

**INDEPENDENT POLICE REVIEW AUTHORITY**

**Log #1022081/U#08-47**

**INVESTIGATION**

**NUMBER:** U#08-47, Log #1022081

**OFFICER**

**INVOLVED #1:** “Officer A” (Chicago Police Officer); Male/White; 35 years old; On-Duty; In Civilian Dress; Year of Appointment – 1998

**OFFICER**

**INJURIES:** Bruising to left arm. Treated at St. Francis Hospital, Blue Island, IL.

**OFFICER**

**INVOLVED #2:** “Officer B” (Chicago Police Officer); Male/Black; 32 years old; On-Duty; In Civilian Dress; Year of Appointment – 1999

**OFFICER**

**INJURIES:** None Reported

**SUBJECTS:** “Subject 1”; Male/Black; 17 years old

**SUBJECT**

**INJURIES:** Two gunshot wounds to right leg, upper thigh and below knee, both apparently through and through, non-fatal. Treated at Christ Hospital.

**INITIAL**

**INCIDENT:** Officers were attempting to conduct a field interview.

**DATE/TIME:** 30 November 2008 at approximately 0119 hours

**LOCATION:** 664 E. 131<sup>st</sup> Street – Altgeld Garden Housing Project  
**Beat 533**

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### **SUMMARY OF INCIDENT:**

On 30 November 2008, at approximately 0112 hours, Officer A and Officer B were patrolling in a marked squad car near 131<sup>st</sup> and Langley. As the squad car approached Langley Avenue, the officers observed a black male subject<sup>1</sup>. Subject 1 ran south on Langley with one of his hands at his side. Officer B drove the squad car south on Langley Avenue to parallel the route of Subject 1 in an attempt to conduct a field interview with him. Subject 1 continued to run with the officers in pursuit of him. Officer B stopped the squad car and Officer A exited the squad car and pursued Subject 1. Officer A observed Subject 1 to be in possession of a pistol during the pursuit. Officer B drove the squad car in reverse on 131<sup>st</sup> Street to Langley Avenue, stopped the squad car, and exited. Officer A continued to pursue Subject 1, turned a corner, and observed Subject 1 holding a gun. Officer A displayed his weapon and he and Subject 1 moved in a circle facing each other. Officer A told Subject 1 to drop his weapon. Subject 1 fired his weapon twice in Officer A's direction. Officer A returned fire and dropped to one knee to reload. Officer B approached the scene and observed the exchange of gunfire between Officer A and Subject 1. Officer B believed that Officer A might have been wounded. Subject 1 still had his weapon pointed at Officer A and was turning it towards Officer B. Officer B fired his weapon at Subject 1. Subject 1 was struck by the gunfire and fell to the ground. Subject 1 was subsequently transported to Christ Hospital via ambulance. Subject 1 sustained two gunshot wounds to his right leg. Officer A recovered Subject 1's weapon.

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<sup>1</sup> Now identified as Subject 1 through Department Reports.

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**At the Roundtable, Officer A** related an account that was consistent with the Summary of Incident. Officer A added that as he pursued Subject 1, Subject 1 pointed his weapon at him, fired, and continued running. Officer A then fired several times at Subject 1. At that time, Officer B was next to Officer A. Officer A dropped to one knee to reload and both officers fired at Subject 1. Subject 1 fell onto a sidewalk and dropped his gun. Officer A approached Subject 1 and stood on Subject 1's weapon. Officer A picked up Subject 1's gun and placed it into his pocket to prevent anyone from taking the gun. (Att.5)

**At the Roundtable, Officer B** related an account that was consistent with the Summary of Incident. Officer B added that once Officer A exited the squad car to pursue Subject 1 he lost sight of Officer A. Officer B drove the squad car in reverse and saw Subject 1 running. Officer B then observed Officer A confront Subject 1. Officer A and Subject 1 both had their weapons displayed. Subject 1 appeared to be holding his gun in his right hand and Officer B heard, "Get down," and "Down, down." Officer A and Subject 1 both fired their weapons. Officer B observed Officer A fall to the ground out of the corner of his eye and thought that Officer A might have been shot. Officer B saw Subject 1 point his weapon in his direction. Officer B fired two or three times as Subject 1 who fell.

**CPD Detective 1 related to the Roundtable panel that he responded to Christ Hospital to speak to Subject 1.** At the hospital, CPD Detective 1 read Subject 1 his Miranda Warnings and Subject 1 agreed to be interviewed. Subject 1 stated that he was in the neighborhood visiting his grandmother. After visiting his grandmother, Subject 1 walked to his girlfriend's residence. As Subject 1 walked to his girlfriend's residence he met a friend, "[Nickname]," who wanted to buy some weed<sup>2</sup>. Subject 1 told "[Nickname]" that he did not have any cannabis. Subject 1 later realized that "[Nickname]" placed a gun into his pocket. Subject 1 told CPD Detective 1 that he did not notice the weight of the gun in his pocket. When "[Nickname]" saw the marked squad car of Officer A and Officer B, "[Nickname]" hid near some garbage cans. "[Nickname]" told Subject 1 that he (Subject 1) had a gun in his pocket and better run away. Subject 1 ran from the officers and waved his left hand in an attempt to tell the officers that "[Nickname]" had put the gun on him. Subject 1 stated that one officer fired at him. Subject 1 accidentally fired the gun two or three times. An officer then fired four times at Subject 1. CPD Detective 1 stated that Subject 1 sustained an apparent entry gunshot wound in the upper right thigh, with an apparent exit wound in the inner thigh. Subject 1 also sustained a gunshot wound below the right knee, with an apparent exit wound on the inside part of the leg. CPD Detective 1 related that hospital personnel found two fired bullets in Subject 1's sweatshirt. (Att.5)

**The report from the Acting Assistant Deputy Superintendent A** included an account of the incident that was consistent with the Summary of Incident. Acting Assistant Deputy Superintendent A added that Officer A secured Subject 1's weapon until relieved by the responding Evidence Technicians. (Att.4)

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<sup>2</sup> A street terminology for cannabis.

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**In a personal visit to Christ Hospital**, Independent Police Review Authority (IPRA) Supervisor A, attempted to interview Subject 1. Supervisor A spoke with CPD Detective 1 who informed her that Subject 1 was being x-rayed. Supervisor A attempted to speak with Doctor A, the attending physician, who was not available. CPD Detective 1 allowed Supervisor A to be present during his interview with Subject 1. Subject 1 provided the same account that CPD Detective 1 provided to the Roundtable panel. Subject 1 sustained two gunshot wounds in his right leg, one in his upper thigh area and the other in his lower leg. (Att.6)

**An attempt to interview Subject 1** was met with negative results. (Att.25)

**The related Department Reports, including the Arrest Report, General Offense Case Report, and Supplementary Reports**, included an account of the incident that is consistent with the Summary of Incident. Subject 1 was charged with two counts of Attempted Murder – First Degree. (Att.7, 41-44)

**A Tactical Response Report from Officer A** indicates that he fired his weapon ten times at Subject 1. (Att.8)

**Officer A's Battery Report** indicates that he sustained non-fatal – minor injury. (Att.9)

**A Tactical Response Report from Officer B** indicates that he fired his weapon three times at Subject 1. (Att.10)

**Officer B's Battery Report** indicates that he did not sustain any apparent injuries. (Att.11)

**A canvass** of the incident produced no additional witnesses or information. (Att.12,13)

**The Crime Scene Processing Report** indicates that indicates that a Smith & Wesson, Model SW40VE, serial number RAX8278, that was in Subject 1's possession was recovered from Officer A and inventoried under number 11516124. Officer A's weapon, a Sig Sauer 9mm, Model P225, was inventoried under number 11516166. Officer B's weapon, a Smith & Wesson 9mm, Model 5943, was inventoried under number 11516091. A Taurus 9mm, Model PT92 AFS, serial number TYH26615, was also recovered in the vicinity of the incident and inventoried under number 11516160. (Att.14)

**Evidence Technician Photographs and videotape** depict the location of incident and the recovered evidence. Photographs of Subject 1 depict a bloody bandage to his right lower leg, a bandage on his right upper leg, and a bruise to his neck. Photographs of Officer A's depict a laceration to his left hand. (Att.15-20, 24)

The **Chicago Fire Department (CFD) EMS incident Report** indicates that on 30 November 2008, at 0124 hours, paramedics responded to the scene and observed Subject 1 lying on the ground among shell casings. Subject 1 was transported to Christ Hospital. (Att.21)

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**Medical Records from Christ Hospital** for Subject 1 indicates that he was diagnosed with a through-and-through gunshot wound to his right knee and a right medial nondisplaced tibial plateau fracture. (Att.57)

**POD #64, located at 700 E. 132<sup>nd</sup> Street**, failed to capture anything relevant to this investigation. (Att.23)

**A report from the Illinois State Police, Forensic Services (ISP)** dated 26 January 2009, indicates that the Taurus 9mm, serial number TYH26615, which was recovered on the scene was examined, found to be in firing condition, and test fired. Officer B's weapon, a Smith & Wesson 9mm, was examined, found to be in firing condition, and test fired. Officer A's weapon, a Sig Sauer 9mm, was examined, found to be in firing condition, and test fired. (Att.50)

**A report from ISP** dated 09 April 2009, indicates that an Illinois State Police gunshot residue kit administered to Subject 1 was tested and indicated that Subject 1 discharged a firearm, contacted a PGSR<sup>3</sup> related item, or had both hands in the environment of a discharged firearm. (Att.47)

**A report from ISP** dated 26 April 2009, indicates that the Smith & Wesson, serial number RAX8278, which was in Subject 1's possession was examined, found to be in firing condition, and test fired. A magazine was examined which fit and functioned in the Smith & Wesson, serial number RAX8278. (Att.49,52)

**A report from ISP** dated 27 April 2009, indicates that the Smith & Wesson, serial number RAX8278, which was in Subject 1's possession, had no indication of blood and a swabbing was collected and preserved. (Att.48,51)

**A report from ISP** dated 10 September 2009, indicates that the Smith & Wesson, serial number RAX8278, a live cartridge from the chamber of the Smith & Wesson, and the magazine with eight live cartridges were all examined and did not reveal any latent impressions suitable for comparison. (Att.53)

**A report from ISP** dated 29 December 2009, indicates that a buccal standard was taken from Subject 1 and Officer A. Both of the buccal standards were examined and compared with the swabbing of the Smith & Wesson, serial number RAX8278. The results indicated that a mixture of human DNA profiles was identified indicating at least three people. Subject 1 could not be excluded from having contributed to the mixture of the DNA profiles. Officer A was excluded from having contributed to the mixture of DNA profiles taken from the Smith & Wesson. (Att.54)

**A Case Supplementary** report included a detail account of the incident that is consistent with the Summary of Incident. The Case Supplementary report added that a subsequent search of the surrounding area in the vicinity of the incident revealed a Taurus nine millimeter (mm), Model PT92 AFS. The report also related that Subject 1 told detectives that as the police, Officer A and Officer B, approached him and "[Nickname]," "[Nickname]" told Subject 1 he had placed

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<sup>3</sup> Positive Gun Shot Residue

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a weapon into his coat pocket. Subject 1 started walking toward the police waving his left hand while holding the weapon in his right hand and stating, "Police, police." A police officer<sup>4</sup> wearing a beige jacket exited the passenger side of the vehicle and leveled his duty weapon at Subject 1. Subject 1 subsequently stumbled over his own feet at which point his weapon discharged two or three times. The case was Cleared Closed by Arrest and Prosecution. (Att.58-60)

**In a statement with IPRA dated 14 December 2010, involved Officer B** stated that on the date of the incident he and Officer A were working beat 511 Adam. Officer B was dressed in plainclothes with his star around his belt and his chain around his neck with his badge holder. Officer B stated that he and Officer A responded to the area of 131<sup>st</sup> and Langley because two people had been shot. Officer B stated that they went to the scene to make sure no one got in the crime scene.

After Officer B and Officer A were released from the scene they stayed in the area to patrol and look for any unusual activity. As Officer B drove westbound on 131<sup>st</sup> Street towards Langley he observed a black male subject<sup>5</sup> running southbound across 131<sup>st</sup> Street on Langley. Officer B followed Subject 1 in the squad car and observed him knock on a door. Subject 1 then continued to run and stopped again. Officer B stated that he pursued Subject 1 because he just wanted to see what he was doing and because of the shooting that had occurred.

Officer B continued to follow Subject 1 and stopped his squad car. Officer B stated that he did not have any emergency equipment activated at that point. Officer B stopped his squad car about five feet away from Subject 1 and Subject 1 put his hands up. As Officer B started to get out of the squad car Subject 1 took off running. Officer B shut the squad car door and made a three point turn to pursue Subject 1. Subject 1 ran through a gangway and Officer A got out of the squad car and pursued Subject 1. At that point, Officer B lost sight of Subject 1 and Officer A. Officer B stated that there was good artificial light during the incident and the weather was cold and freezing.

After Officer A got out of the squad car, he got on the radio and gave his direction of travel. Officer B drove in reverse because he knew the area and believed that he knew where Subject 1 was going to come out. Officer B got out of the squad car. When Officer B got out of the squad car he observed Subject 1 running in his direction and Officer A running behind Subject 1. Subject 1 turned around and ran away from Officer B. At that point, Officer B observed a gun in Subject 1's hand. Officer B could not recall if he first observed Subject 1 with a gun before or after he exited the squad car. Officer B described Subject 1's weapon as a semi-automatic. Subject 1 continued to run almost colliding with Officer A. Subject 1 then fired his weapon. Officer B stated that he was about fifteen to twenty feet away when Subject 1 fired his weapon and Officer A was in the same area as Subject 1. At that point, Officer A and Subject 1 were within five feet of each other.

After Subject 1 started shooting, Officer A circled south around Subject 1 and Subject 1 circled north in a clockwise manner to get around each other. Officer B ran towards Officer A and Subject 1. As Officer B got closer he observed Officer A fire his weapon. Officer B stated

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<sup>4</sup> Identified as Officer A as the passenger officer wearing a beige jacket.

<sup>5</sup> Now known as Subject 1 through Department Reports

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that it was non-stop firing and Subject 1 was not going down. Officer B observed Officer A go down out of the corner of his eye and believed that Officer A had been shot. Officer B then fired his weapon twice as he stood approximately five feet away from Subject 1. Officer B stated that he fired his weapon because Subject 1 had his weapon pointed at Officer A. Officer B did not know when exactly he pulled out his weapon. Officer B stated that he fired his weapon because he thought Subject 1 had killed Officer A and he feared for his own life.

As Officer B fired his weapon he noticed Officer A was firing his weapon as well. Subject 1 fell to the ground and his weapon fell out of his hand. Subject 1 started reaching for his weapon and something in his jacket. Officer A ran up and grabbed Subject 1's weapon. Officer B then placed Subject 1 in handcuffs behind his back. Officer B radioed for help. Officer B stated that help was already on the way because Officer A had already given a description of Subject 1 during the pursuit. Officer B stated that he did not take cover during the incident.

Officer B stated that he used a Smith & Wesson 9 mm during the incident which holds sixteen live rounds. Officer B stated that his TRR states that he fired his weapon three times. Officer B stated that whoever completed the TRR found that the Evidence Technician or Crime Lab took his weapon and saw how many shots he actually shot. Officer B stated that after the shooting the area was cleared and secured and additional officers found another weapon in the area. Officer B stated that he clearly observed Subject 1 fire his weapon first because Officer A circled Subject 1 towards him and Subject 1 had already shot. (Att.65)

**In a statement with IPRA dated 14 December 2010, involved Officer A** stated that on the date of the incident he and Officer B were working beat 511 Adam, a marked squad car. Officer A stated that he was in civilian dress wearing blue jeans, brown boots, and a desert camouflage United States Marine Corps field jacket. Officer A star was pinned to the outside of his jacket. Officer A and Officer B responded to the location of incident, known as Altgeld Gardens, because of the watch commander's instruction. The watch command told Officer A and Officer B that that he wanted police presence in Altgeld Gardens because a double shooting had occurred. Officer A and Officer B responded to Altgeld Gardens and patrolled the area.

As Officer A and Officer B patrolled the area, Officer B observed a male subject running.<sup>6</sup> Officer A stated that it seemed unusual for Subject 1 to be running because the area appeared quiet and he had knowledge of the previous shooting that had occurred. Officer A stated that he did not know if Subject 1 was being chased or if he was in trouble. Officer A and Officer B decided to monitor Subject 1. Officer A observed Subject 1 stop and begin "slamming"<sup>7</sup> onto a door with his left hand. Subject 1 appeared to have an unknown object in his right hand and was looking side to side as if he did not want to be observed. Officer A stated that he and Officer B was half a block away when he observed Subject 1 with an object in his hand.

After observing Subject 1, Officer A and Officer B drove towards him to conduct a field interview. Subject 1 looked in the officers' direction and put both of his hands in the air. Officer A stated at that time Subject 1 did not have anything in his hands. The squad car came to a stop

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<sup>6</sup> Now identified as Subject 1 through Department Reports.

<sup>7</sup> Officer A described seeing "slamming" onto a door with his left hand. There was no clarification as to what "slamming" meant in that context.

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and Officer A began to exit the vehicle. As Officer A was about to exit the squad car Subject 1 took off running. Officer A closed the squad car door and Officer B executed a three point turn to pursue Subject 1 in the squad car. Subject 1 ran north through a gangway between row houses so the squad car could not follow him. Officer A exited the vehicle and gave chase. After Officer A exited the squad car, he communicated over the radio that they needed another car to assist them.

As Officer A pursued Subject 1 and got closer to him, he observed that he believed to be a firearm in Subject 1's possession. Officer A described the firearm in Subject 1's hand as "dark." Officer A stated that the weather was cold but clear and there was excellent artificial lighting all over the area. Officer A continued to pursue Subject 1 and withdrew his weapon. Officer A stated that he withdrew his weapon once he observed what he believed to be a weapon in Subject 1's hand. Officer A yelled to Subject 1, "Drop the weapon. Police! Drop the weapon. Stop! Drop the weapon." Subject 1 refused and continued running.

Officer A radioed Officer B and told him his location. Subject 1 continued to run southbound and Officer A observed the squad car in front of Subject 1. Subject 1 then turned to the east, then north, and made eye contact with Officer A who was just north of him. Subject 1 fired a shot at Officer A. Officer A stated that he had to wait momentarily to fire his weapon because Officer B's squad car was in his line of fire. Officer A moved to the south of Subject 1 and fired his weapon at Subject 1.

Subject 1 continued to fire his weapon at Officer A with Officer A returning fire. Subject 1 and Officer A were within five or six feet of each other as they fired their weapons and they were both moving to their right as they fired their weapon. Officer A stated that he was unable to take cover and moved to his right to avoid Subject 1's gun fire. Officer A stated that he used a two hand grip when he fired his weapon at Subject 1. At one point during the shooting Officer A dropped to one knee to reload his weapon. Officer A stated that his weapon, a Sig Sauer 9mm, which holds nine rounds, eight in the magazine and one in the chamber, ran out of ammunition. Officer A stated that he dropped to one knee to reload his weapon because it is an old habit from the Marine Corps. Subject 1 fired at least one more shot in the direction of Officer B. Officer B then discharged his weapon at Subject 1.

After Officer A reloaded his weapon he fired at least one more shot at Subject 1 because he was not down yet. Officer A then observed Subject 1 north of him in a courtyard just west of Langley Street. Subject 1 fell to the ground and his weapon fell out of his right hand. Officer A immediately ran towards Subject 1 and observed him grabbing for his weapon with his right hand and reaching into his coat with his left hand. Officer A still had his weapon out and pointed at Subject 1. Officer A directed Subject 1 to get on his stomach but Subject 1 did not. Officer B performed emergency handcuffing technique on Subject 1 which stopped him from reaching for the weapon and into his coat. Officer A then recovered Subject 1's weapon.

Officer A stated that immediately after the shooting residents came out of their apartments hostile and he decided to immediately recover the weapon. Officer A stated that he never stood on Subject 1's weapon. Officer A stated that during the incident he believed that he



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was struck by a deflected bullet from a brick wall. Officer A sustained a deep bruise to his left forearm and went to St. Francis Hospital for treatment. (Att.66)

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### **CONCLUSION AND FINDING:**

This investigation found that the use of deadly force by Officer A and Officer B 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."

Subject 1 was in possession of a firearm at the time of the incident, regardless how he got possession of the gun. A weapon was recovered from the scene and tested by ISP. The report from ISP indicated that a gunshot residue test administered to Subject 1 was tested and indicated that Subject 1 discharged a firearm, contacted a PGSR related item, or had both hands in the environment of a discharged firearm. Regardless if Subject 1 fired the weapon accidentally, he placed Officer A and Officer B in fear of their life. Therefore, based on the totality of the circumstances, Officer A and Officer B were reasonably in fear for their life and fired at Subject 1 to prevent death or great bodily harm. Officer A and Officer B weapon discharge were in compliance with multiple provisions of the Department's General Order 02-08-03, III. Officer A and Officer B both fired their weapon to prevent death or great bodily harm to themselves.