

INDEPENDENT POLICE REVIEW AUTHORITY
LOG #1026288 / U# 09-13

INVESTIGATION

NUMBER: LOG #1026288 / U #09-13

OFFICER #1

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 30 years old;
On-Duty; In Uniform; Year of Appointment – 2002

OFFICER #1

INJURIES: Minor injury to left elbow.

SUBJECT:

“Subject 1”; Male/Black; 22 years old

SUBJECT

INJURIES: Graze wound to lower left leg. Treated at St. Bernard Hospital.

INITIAL

INCIDENT: Person with a gun.

DATE/TIME/

LOCATION OF

INCIDENT: 11 MAY 09; 2142 hours, 71XX S. Winchester Ave. (backyard)
Beat 735.

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SUMMARY OF INCIDENT:

On 11 May 2009, at approximately 2142 hours, Officer A and Officer B responded to a call regarding a person with a gun. In the vicinity of 72nd St. and Wolcott Ave., the officers observed a subject matching the general description walking westbound on 72nd St. The officers stopped, exited their vehicle, and approached the subject, now known as Subject 1, to conduct a field interview. Officer A ordered Subject 1 to place his hands above his head and on the fence, and Subject 1 complied. As Officer A began to conduct a physical search of Subject 1, Subject 1 slapped the officer's hands away and fled westbound on 72nd St. holding his waistband.

Officer A immediately chased Subject 1 and Officer B paralleled the foot chase in the squad car. Officer A observed Subject 1 reach into his waistband and grab a handgun. Subject 1 ran into the gangway of 71XX S. Winchester Ave. As Subject 1 entered the rear yard, he removed the handgun from his waistband and pointed it at Officer A. Officer A fired three shots at Subject 1. Subject 1 dropped the weapon to the ground and continued a little farther before falling to the ground. Subject 1's firearm was recovered at the scene. Subject 1 was placed in custody and transported to St. Bernard Hospital, where he was treated for a graze wound to the lower left leg.

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In his **Weapons Discharge Incident Report**, On Call Incident Commander A related that on 11 May 2009, at approximately 2142 hours, Beat 4535A, Officer A and Officer B, responded to a person with a gun. In the vicinity of 72nd St. and Wolcott, the officers observed a subject, now known as Subject 1, who matched the general description walking westbound on 72nd St. in the company of a female companion, now known as Witness 1. The officers radioed other team members via car-to-car radio and then stopped their vehicle. Officer A exited and approached Subject 1 to conduct a field interview. Officer A ordered Subject 1 to place his hands above his head and on the fence, and Subject 1 complied. Officer A began to conduct a physical search of Subject 1. Subject 1 then slapped Officer A's hands away and began to flee westbound on 72nd St., holding his waistband.

Officer A immediately gave chase. Officer B, who had begun to exit the vehicle, re-entered it and paralleled the foot chase in an attempt to anticipate Subject 1's path of flight and cut off the avenue of escape. As Officer A chased Subject 1 on foot, the officer observed Subject 1 reach into his waistband and grab a handgun as he continued to flee. Officer A began shouting "Gun, gun" and "Don't do it, don't do it." Officer A pursued Subject 1 into the gangway of 71XX S. Winchester Ave. As Subject 1 entered the rear yard, he removed the handgun from his waistband and pointed it at Officer A. Officer A, fearing for his life, fired three rounds at Subject 1. Officer A ducked for cover, causing him to scrape his right elbow against the adjacent house and causing minor injury. Subject 1 dropped the weapon to the ground and continued a little farther before falling to the ground. Because he was unsure of the location of his partner and assist units, Officer A recovered the weapon fearing that Subject 1 might try to retrieve it. Officer B, Officer C and CPD Sgt. 1 placed Subject 1 in custody and requested an ambulance. Subject 1 spontaneously uttered, "I'm sorry, I'm sorry, I'm sorry." Subject 1 was transported to St. Bernard Hospital, where he was treated and released for a graze wound to the lower left leg.

On Call Incident Commander A conducted an independent walk through with the officer and then responding members of IPRA. On Call Incident Commander A attempted to interview Subject 1 at Area One but Subject 1 invoked his right to remain silent and refused any comment.

On Call Incident Commander A found that, based upon investigation of this incident at the scene and Area One, Officer A discharged his weapon in compliance with Department policy. Officer A was aware that Subject 1 had a weapon which he then pointed at Officer A, placing him in fear for his life. (Att. #4)

On 11 May 2009, a **Roundtable Panel** was conducted regarding an officer-involved shooting. The **subject, Subject 1**, did not provide an account to the Roundtable Panel after invoking his right to remain silent.

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In a **statement** to IPRA on 12 May 2009, the **subject, Subject 1**, related that he was walking westbound on 72nd street toward Winchester. Subject 1 saw a girl that he knows as “[Nickname]” and began walking with her.¹ A squad car pulled up to them and the passenger officer exited the vehicle and said to Subject 1, “Come here.” The driver did not exit the vehicle. The officer had Subject 1 face a wooden gate. Subject 1 put his hands on the gate and the officer searched him. Subject 1 stated that he had \$60.00 worth of crack cocaine in the right front pocket of his blue jeans so he ran before the officer could find the crack cocaine. Subject 1 ran westbound across Winchester and through the gangway of an abandoned house. The officer chased him and Subject 1 jumped over a metal gate and ran through the backyard of the abandoned house. Subject 1 took several steps toward the alley when he heard three or four gunshots. Subject 1 fell to the ground. Subject 1 then observed the officer jump over the fence into the back yard. The officer approached Subject 1 and stated, “You were going to shoot me?” and “You got a gun.” Subject 1 related that numerous officers ran up and began to search Subject 1, but they did not find a gun. Subject 1 stated that he had dropped the crack cocaine on the ground in the back yard and the officers did not find the cocaine. Subject 1 was taken to St. Bernard Hospital in an ambulance. Subject 1 stated that he was shot in his left calf. Subject 1 denied that he had a gun or any other weapon in his possession during this incident. (Att. #15)

Witness 1 related to the Roundtable Panel that she had known Subject 1 for approximately three months. Witness 1 was walking with Subject 1 when they were stopped by the police. The male officer exited the squad car and told Subject 1, “Come here.” Subject 1 ran westbound on 72nd St. and then northbound on Winchester Ave. The male officer chased Subject 1 and Witness 1 lost sight of them. Several moments later, Witness 1 heard what she believed were four or five gunshots. Witness 1 ran west on 72nd St. and saw Subject 1 lying on the ground in a backyard. Subject 1 yelled that he had been shot in the leg. Witness 1 stated that she did not observe the officer shoot Subject 1. Witness 1 also stated that she never saw Subject 1 with a gun on the night of the incident. (Att. #16)

In a **statement** to IPRA on 12 May 2009, the **witness, Witness 1**, provided an account of the incident that is consistent with related Department reports and the account she provided to the Roundtable panel. Witness 1 added that the male officer grabbed Subject 1’s coat and searched Subject 1. Subject 1 then ran to 71st and Winchester. (Att. #12, 54)

In a **statement** to IPRA on 07 March 2012, the **witness, Witness 2**, related that she was at home watching television, when she heard three or four shots fired.² Witness 2 looked outside her window and observed one white female officer running toward the back yard of the residence on the northwest corner of 72nd St. and Winchester. The white female officer and other unknown officers appeared to stand over somebody who was lying on the ground in the yard. Witness 2 did not observe any physical contact between

¹ According to the Detective Supplementary Report (Att. #54), Subject 1 stated that he had just met the female, now known as Witness 1, that day.

² Witness 2’s home address is XXXX S. Damen Ave.

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the officers and the person on the ground. Witness 2 provided an account of the incident that is consistent with the summary of incident and related Department reports. (Att. #54, 68)

Officer B, related to the Roundtable panel that she and her partner, Officer A, responded to a call of a “man with a gun” at 71st and Wood. As the officers drove northbound on Wolcott Ave. toward 72nd St., Officer B observed a group of people standing on the northwest and southwest corners of 72nd and Wolcott. Officer A told Officer B that he saw a black male subject, now known as Subject 1, matching the description of the person with the gun. The description was for a black male wearing a gray or light colored coat or hoodie and blue jeans. Officer B observed that Subject 1 and a black female subject, now known as Witness 1, walked away from the group and headed westbound on 72nd St. Officer B pulled up alongside the two individuals. Officer A exited the squad car and Officer B radioed other units that they were stopping Subject 1. Officer A ordered Subject 1 to put his hands on the fence on the south side of the back yard of 7159 S. Winchester Ave. Subject 1 complied. When Officer A attempted to handcuff him, Subject 1 slapped Officer A’s hand away and then ran westbound on 72nd St. Officer A pursued Subject 1 on foot. Officer B observed that as Subject 1 ran, he was holding a handgun. Officer B got back into the squad car and drove west on 72nd St. to cut off Subject 1’s escape. Officer B heard Officer A yell “Gun!” several times. Officer B lost sight of Subject 1 and Officer A when they ran into the gangway on the north side of the house at 71XX S. Winchester Ave. Officer B continued west on 72nd St. and, as she approached the alley, she heard three or four gunshots. She stopped and exited the vehicle and ran northbound into the backyard of 71XX S. Winchester Ave. Officer B observed Subject 1 lying on the ground in the backyard. Several other officers arrived and Subject 1 was handcuffed. Officer B stated that she did not observe Officer A shoot Subject 1. (Att. #16)

In a **statement to IPRA** on 26 November 2011, **Officer B** provided an account of the incident that is consistent with the summary of the incident, related Department reports and the account she provided to the Roundtable panel. (Att. #54, 55, #56)

Officer A, related to the Roundtable panel that he stopped Subject 1 and Witness 1 because Subject 1 matched the description of the person from the call for a man with a gun. Officer A attempted to handcuff Subject 1 and Subject 1 slapped the officer’s hand away. Officer A chased Subject 1 westbound on 72nd St. During the foot pursuit, Officer A observed Subject 1 grabbing his right side. Officer A then observed that Subject 1 was holding a gun. Officer A repeatedly yelled, “Gun! Gun!” and “Don’t do it!” Officer A chased Subject 1 into the gangway on the north side of the residence at 71XX S. Winchester Ave. Subject 1 jumped over the fence to the backyard. Subject 1 then turned toward Officer A and pointed the handgun at Officer A. The officer ducked down and discharged his firearm three times at Subject 1, who took several steps into the yard and fell to the ground. Officer A estimated that he fired his weapon from a distance of approximately fifteen feet. Subject 1 dropped his handgun to the ground. Officer A entered the yard through an opening between the fence and the house and approached Subject 1. Officer A observed Subject 1’s handgun on the ground and picked it up to

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ensure his safety. Additional officers arrived on the scene and after the scene was secure, Officer A placed Subject 1's gun in the same spot on the ground. (Att. #16)

In a **statement to IPRA** on 27 December 2011, **Officer A** provided an account of the incident that is consistent with the Summary of Incident, related Department reports and the account he provided to the Roundtable panel. After reviewing his account to the Roundtable panel, Officer A indicated that he found one discrepancy: that Officer A picked up Subject 1's handgun to insure his safety. Officer A did not recall picking up Subject 1's firearm but admitted that he grasped it and released it without picking it up off the ground when assisting officers arrived. (Att. #54, #59, #60)

A **canvass** of the location of the incident was met with negative results. (Att. #24).

The **Original Case Incident Report** under RD# HR315823 provides information consistent with the Summary of Incident. The report further states that the offender Subject 1 was armed with a Smith and Wesson six-shot, blue steel revolver, 4-inch barrel, .38 special, Serial # 90461 335645. (Att. #27)

Officer A's **Tactical Response Report** indicates that he discharged his firearm three times at Subject 1. (Att. #10)

Office of Emergency Communications (OEMC) Event Query shows that an unknown caller reported a person with a gun on 11 May 2009, at approximately 2134 hours, in the vicinity of 7100 S. Wood St. The caller described the person with a gun as a black male with a black baseball cap, gray hoody and blue jeans. At approximately 2142 hours, Beat 4435 notified OEMC of the officer's weapon discharge. At approximately 2143 hours, an unknown requested an ambulance for the subject. (Att. #20-23, 29)

Evidence Technician photographs depict the shooting scene, Officer A and Subject 1. Officer A's right elbow is photographed, but no injuries are apparent. Subject 1's left shin is bandaged. (Att. #46)

A **Chicago Fire Department EMS Report** indicates that Subject 1 was running from the police and was shot in the left lower leg in the vicinity of 1927 W. 72nd St. / 7159 S. Winchester Ave. Subject 1 sustained a graze wound above the ankle. (Att. #43)

The **Medical Records** of Subject 1 from St. Bernard Hospital indicate that he had sustained a superficial gunshot wound to the left ankle area. No active bleeding was noted. (Att. #40)

Crime Scene Processing Reports describe various clothing items that forensic investigators recovered from Subject 1. In addition, forensic investigators recovered three expended shells from the south gangway pavement at 71XX S. Winchester Ave. which were inventoried under # 11667108. Additional items that were recovered included the firearm of PO Rigan that was inventoried under # 11667114; and the firearm

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of Subject 1 that was recovered in the rear yard at 71XX S. Winchester Ave. and inventoried under # 11667103. (Att. #36).

A **laboratory report** from the Illinois State Police, Division of Forensic Services, dated 28 May 2009, states that three Winchester 9mm Luger +P caliber fired cartridge cases (inventoried under # 11667108) were examined. It was determined that the three cartridge cases were fired in Officer A's weapon, inventoried under # 11667114. Officer A's weapon, a Smith & Wesson, model M&P 9, 9mm Luger caliber semiautomatic pistol, serial #MPV2225, was examined, found to be in firing condition and test fired. The pistol displayed rifling characteristics of five lands and grooves with a right hand twist. Fifteen Winchester 9mm Luger +P caliber unfired cartridges were examined for caliber and type, and one magazine was used to test fire the pistol. (Att. #39)

A **laboratory report** from the Illinois State Police, Division of Forensic Services, dated 29 September 2009, indicates that the one revolver and six live cartridges revealed no latent impressions suitable for comparison. (Att. #42)

An **ATF trace report** on the revolver indicated that the firearm was traced from the manufacturer to a business for which the ATF National Tracing Center could find no record of their having a federal firearms license. (Att. #63)

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CONCLUSION AND FINDING:

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 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's actions were in accordance with CPD's deadly force policy. Based on the totality of the circumstances, it was reasonable that Officer A feared for his life as a result of Subject 1's actions. Officer A and Officer B responded to a call for a person with a gun and observed Subject 1, who matched the description provided. Officer A conducted a street stop and Subject 1 slapped the officer's hand away and ran away. Both officers observed Subject 1 run with his hand on a gun. Subject 1 ran into a residential yard, turned toward Officer A and pointed the handgun at Officer A. Officer A then discharged his firearm three times at Subject 1. When Officer A fired his weapon, he reasonably believed that he was in danger of death or great bodily harm from Subject 1.