

INDEPENDENT POLICE REVIEW AUTHORITY
LOG#1027310/U#09-21

INVESTIGATION

NUMBER: 1027310 / U#09-21

**OFFICER
INVOLVED:**

“Officer A” (Chicago Police Officer); Male/Hispanic; 43 years old; On-Duty; In Uniform; Year of Appointment – 2000

**OFFICER
INJURIES:**

None.

SUBJECT:

“Subject 1”; Male/Hispanic; 14 years old

**SUBJECT’S
INJURIES:**

One, through and through, gunshot wound to the right leg. Treated at Stroger Hospital.

**INITIAL
INCIDENT:**

Burglary. **Beat 1034.**

DATE/TIME:

15 JUN 09, 0425 hours.

LOCATION:

1900 W. 23rd Street (inside Whittier Elementary School).
Beat 1034.

SUMMARY OF INCIDENT:

On 15 JUN 09, at approximately 0425 hours, the subject, Subject 1 (then 14YOA), and his brother, Subject 2, (then 13YOA) broke into Whittier Elementary School, located at 1900 W. 23rd Street. The alarm sounded and the police were called. The school custodian, Witness 1, met Officer A, and his partner, Officer B, Unit 010, at the school to unlock the doors. Officer A and Witness 1 entered the school through the front door, walked to the third floor, and observed that the lights were on in Room #303. Officer A approached the room and asked loudly if anyone was inside. Subject 1 exited the room holding a long dark object, ran through the double doors located on the west side of the gym and fled down the stairs. Officer A yelled, "Police. Stop," but Subject 1 ignored him. Officer A pursued Subject 1 and observed Subject 1 holding a black rifle in his hand, while standing on the landing between the second and third floors. Officer A ordered Subject 1 to drop the weapon. Subject 1 failed to comply and pointed the weapon in Officer A's direction. Officer A fired one round in the direction of Subject 1. Subject 1 continued to flee down the stairwell. Officer A realized that Witness 1 was alone on the third floor, became concerned for her safety, terminated his pursuit of Subject 1 and retreated to Witness 1's area.

While Officer A was pursuing Subject 1, Officer B entered the building, via the east stairwell. Officer B was standing on the second floor landing when he observed Subject 1 standing between the third and second landing, holding a dark object in his hands. Officer B heard one shot fired and observed Subject 1 continue to flee down the stairwell. Officer B pursued Subject 1, unaware of who fired the shot. Officer B ended his pursuit after he heard another person (now known as Subject 2) running down the east stairwell.

Subject 2 fled from the school, but was subsequently arrested at 1XXX W. Cermak. Subject 1 was subsequently arrested at his home at 1XXX W. Cullerton. Subject 1 sustained a through and through gunshot wound to his right leg; was treated at Stroger Hospital and was charged with Burglary/School/Place of Worship and Aggravated Assault to an Officer/Firearm. (Att. #5).

INVESTIGATION:

On 15 JUN 09, at approximately 1240 hours, a Roundtable Panel was conducted regarding the police involved shooting of Subject 1. A civilian witness, Witness 1, responding CPD Sergeant 1, Unit 011, responding CPD Detective 1, Unit 640, and the involved officers, Officers A and B, were present. (Att. #5).

Civilian Witness 1 related to the Roundtable panel an account consistent with the Summary of Incident. Witness 1 related she met Officers A and B at the school, with the keys, after she received a call from her boss, the principal, that an alarm had gone off. Witness 1 knew Subject 1 as a student at the school and that all of the school's technological equipment was located in Room #303. Witness 1 observed Officer A give chase to Subject 1 and heard Officer A state, "Drop it" She heard a single gunshot, then observed Subject 1's brother, Subject 2, whom she also knew as a student at the school, run by her, out the east side double doors of the gym, and down the stairwell. Witness 1 went to the second floor, where she was met by Officer A, who told her that Subject 1 had pointed a rifle at him. Witness 1 did not observe the actual shooting incident. (Att. #5).

Involved Officer A related to the Roundtable panel an account consistent with the Summary of Incident. Officer A related that he and his partner, Officer B, received an Office of Emergency Management and Communications (OEMC) assignment to respond to a burglar alarm in Room #303, inside Whittier Elementary School, located at 1900 W. 23rd Street. Upon arrival, the school was secured. Officer A checked the west side of the school while Officer B checked the east side. The custodian, Witness 1, arrived and used her keys to unlock the front doors. Officer A and Witness 1 entered the school, went to the third floor, entered the double doors that led to the gym, and observed that the lights were on inside Room #303. Officer A drew his weapon and asked if anyone was inside. A Hispanic/male subject, Subject 1, fled from the room holding a long black object in his hands. As Officer A pursued Subject 1, he fled through the double doors located on the west side of the gym and down the west stairwell. During the pursuit, Officer A observed that a second subject, Subject 2, was running behind him, in the opposite direction, toward the east stairwell. Once Subject 1 ran down the stairs, onto the landing between the second and third floor, Officer A, while standing on the third floor landing, near the railing, observed that the object in his hands was a rifle.¹ Officer A announced his office and instructed Subject 1 to drop the weapon. Subject 1 made eye contact with Officer A and then pointed the rifle from his waist, upward, in the direction of Officer A. Fearing for his safety, Officer A discharged his firearm once in the direction of Subject 1. When Subject 1 continued to flee down the stairs, Officer A radioed, "Shots fired by the police," and continued his pursuit of Subject 1. Officer A observed that Subject 1 dropped the weapon on

□

¹ . Officer A was able to clearly see Subject 1 because the stairwell was well lit.

INDEPENDENT POLICE REVIEW AUTHORITY
LOG#1027310/U#09-21

the landing between the second and first floor. Witness 1 joined Officer A on the second floor until other units arrived at the scene. (Att. #5).

Witness Involved Officer B related to the Roundtable panel an account consistent with the Summary of Incident. Officer B related that he entered the school and ascended the east stairwell after Officer A radioed to him that he was upstairs with the “key holder”. When he reached the second floor, Officer B observed Subject 1 standing on a landing between the third and second floor, pointing a long, black object up, toward the third floor. Officer B heard a gunshot and observed Subject 1 flee down the stairwell to the second floor. Officer B pursued Subject 1, and observed that Officer A was also in pursuit of Subject 1. Officer B heard another subject running and when he turned around to see who it was, he observed Subject 2 flee down the east stairwell. Officer B pursued Subject 2 from the school and into an alley where he was subsequently taken into custody. (Att. #5).

Witness Responding CPD Sergeant 1 related to the Roundtable panel that he was assigned to investigate an incident regarding a police involved shooting. He responded to Cermak & Damen, where Subject 2 had been taken into custody. Subject 2 identified Subject 1 as his brother and provided their address as 1XXX W. Cullerton. CPD Sergeant 1 relocated to the subjects’ residence where he met with their father, [Subjects’ Father], and informed him that the police were looking for Subject 1. During their conversation, CPD Sergeant 1 heard a police monitor and Subject 1 arrived with another brother, [Subjects’ Brother]. CPD Sergeant 1 asked Subject 1 what happened and he responded that he was “shot by the police because he was holding a gun.” Subject 1 was subsequently transported to Stroger Hospital for treatment. (Att. #5).

Witness Responding CPD Detective 1 related to the Roundtable panel that he interviewed Subject 1 after he agreed to be interviewed and was Mirandized. [Subjects’ Father] was unavailable to be present, so CPD Detective 2 acted in the capacity of Subject 1’s guardian. CPD Detective 1 observed that Subject 1 had a through and through gunshot wound to his right leg, above the knee. Subject 1 informed CPD Detective 1 that he was in possession of a BB pellet rifle while he and his brother, Subject 2, were standing on Cermak & Damen. Subject 2 informed Subject 1 that he knew of an open window at Whittier Elementary School. The two relocated to the school and entered a third floor room. While in the room, they heard someone. Subject 1 fled from the room while holding the rifle. As he was turning to go down the stairs, located between the third and second floors, Subject 1 observed an individual, Officer A, standing at the double doors. Subject 1, unaware that Officer A was the police, stopped on the landing and pointed the rifle toward Officer A. Subject 1 heard a single gunshot, felt pain and continued to run down the stairwell, dropping the rifle between the second and first floor stairwell. (Att. #5).

Attempts by IPRA to interview the subjects, Subject 1 and Subject 2, met with negative results. Assistant Public Defender A declined to allow Subject 1 to provide a statement to the Independent Police Review Authority (IPRA).² [Subjects' Father] declined to allow Subject 2 to provide a statement to the IPRA. (Att. #8, #48, #49).

The Chicago Fire Department (CFD) Ambulance report documents that Subject 1 was alert and oriented when he was treated by CFD paramedics for a gunshot wound to the upper right leg. Subject 1 informed the paramedics that he was inside the school and pointed an air BB gun/rifle at a Chicago police officer, who, in turn, shot and wounded him. There was an entrance and exit wound noted, to which the paramedics applied a pressure dressing. Subject 1 denied any loss of consciousness, neck or back pain, and was in custody and ambulatory at the scene. Subject 1 was transported to Stroger Hospital for additional medical treatment. (Att. #37).

The medical records from Stroger Hospital document that on 15 JUN 09, at approximately 0515 hours, Subject 1 was escorted into the triage, in police custody, for treatment of a gunshot wound to his right leg, after he was shot by the police for pointing a BB gun at an officer. Subject 1 was diagnosed with a gunshot wound to the right distal thigh. (Att. #38).

Evidence Technician photographs and the Crime Scene Video, taken on 15 JUN 09, depict the scene, which consists of the interior/exterior of the school and the interior/exterior of a Cadillac. (Att. #11, #40, #41).

In a statement to IPRA, on 15 JUN 09, the witness, Witness 1, provided an account consistent with the Summary of Incident. (Att. #6).

The information contained in an Incident Report from the Chicago Board of Education surrounding the police involved shooting of Subject 1, inside Whittier Elementary School, was consistent with the Summary of Incident. (Att. #51).

An attempt to obtain surveillance video footage surrounding the police involved shooting of Subject 1, inside Whittier Elementary School, was made, but met with negative results. A letter of correspondence from the Chicago Board of Education Law Department indicated that the footage was no longer available. After a short period of time, the footage captured on the surveillance cameras expires. (Att #50).

□

² [Subjects' Father], Subject 1's, father informed the R/I that Subject 1 was currently detained at the Juvenile Detention Center because he violated the provisions of his probation regarding the charges against him the day he was shot by the police.

The Arrest and Case reports, CB#17594489, 17594488, RD#HR - 375971, contain information consistent with the Summary of the Incident. Subject 1 was charged with Burglary/School/Place of Worship and Aggravated Assault/Officer/Firearm. Subject 2 was charged with Burglary/School/Place of Worship. (Att. #43-#45).

The Tactical Response Report (TRR) and the Officer's Battery Report document that Subject 1 did not follow verbal direction, fled, posed an imminent threat of battery, and pointed a rifle at Officer A. Officer A responded with his presence, verbal commands, and discharging his firearm. CPD Captain A, concluded that Officer A's actions were in compliance with Department policy. (Att. #9 & #10).

The Chicago Police Department Event Query and the Disc of transmissions from the Office of Emergency Management and Communications (OEMC) contain information consistent with the Summary of the Incident. (Att. #34, 342, #54, #55).

In a statement to the IPRA, the involved officer, Officer A, provided an account consistent with the Summary of Incident. His account contained no contradictory information from the Roundtable. Officer A learned that Subject 1 sustained a through and through gunshot wound to his right leg while consulting with the ambulance personnel. (Att. #56 & #58).

In a statement to the IPRA, the involved officer, Officer B, provided an account consistent with the Summary of Incident. His account contained no contradictory information from the Roundtable. Officer B did not witness the arrest of Subject 1 or Subject 2. (Att. #60 & #61).

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by the involved officer was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order 02-08-03, Section 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 the first condition of the Chicago Police Department's deadly force policy. Officers A and B responded to a burglar alarm inside an elementary school. During the investigation, Officer A encountered Subject 1, who fled down a stairwell while holding a BB gun in his hands. Officer A pursued Subject 1 down the stairwell, identified himself as the police and ordered Subject 1 to stop. Subject 1 failed to comply, turned and pointed the BB gun at Officer A. Officer A ordered Subject 1 to drop the BB gun, but Subject 1 failed to comply. Officer A, in reasonable fear of death or great bodily harm, discharged his weapon in the direction of Subject 1, striking Subject 1 in the right leg. Based upon the totality of the circumstances surrounding the police involved shooting of Subject 1, Officer A was justified in using deadly force.