

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1027884/U#09-25

INVESTIGATION

NUMBER: Log #1027884 / U #09-25

OFFICER

INVOLVED #1 “Officer A” (Chicago Police Officer); Male/White; 30 years old;
On Duty; In Uniform; Year of Appointment – 2002

OFFICER’S

INJURIES: None Reported

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

SUBJECT’S

INJURIES: Gunshot wounds to rear right flank, and back of neck on the right side. Pronounced deceased at Mount Sinai Hospital by Dr. Sullivan at 2332 hours.

INITIAL

INCIDENT: Person with a gun call.

DATE/TIME: 02 July 2009, at 2115 hours

LOCATION: XXXX S. Christiana

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SUMMARY OF INCIDENT:

This investigation, in conjunction with information gained through the investigation launched by the Chicago Police Department, revealed the following.

On 02 July 2009, at approximately 2100 hours, a group of 3-4 male/blacks committed a home-invasion style armed robbery at XXXX S. Spaulding, against the resident of said, [Robbery Victim]. One of the suspects in the group of offenders was Subject 1.

Also amongst the group was Witness 2, who would later provide pertinent details in this investigation. Witness 2 would later indicate that he provided Subject 1 with two firearms that he stole from his grandmother, Judy Mitchell, of 5043 W. Jackson. One of the firearms was a .40 caliber Hi-Point.

Witness 2, Subject 1, Luis LNU, and Darnell LNU went to XXXX S. Spaulding. Subject 1 knocked on the door, and [Robbery Victim] opened the door. Subject 1 pointed his firearm at Martin, and demanded money. Martin complied with the robbery, and gave Subject 1 \$2.00 USC and a box of Newport cigarettes.

Subject 1 and the other offenders then fled XXXX S. Spaulding, through a vacant lot, and into the alley north of XXXX S. Spaulding. Officers A and B (Beat 4495A, marked squad car, full uniform) had received an OEMC call regarding a person with a gun, and were driving through the same alley, when they found themselves behind the fleeing group of suspects.

While in flight, Subject 1 dropped the box of Newport cigarettes taken in the robbery. Officer A continued to pursue in his squad car, until Subject 1 turned into a vacant lot at 1946 S Christina. At that time, Officer A exited his squad car and pursued Subject 1 on foot.

Subject 1 and the other two offenders separated on Christina; Officer A remained in pursuit of Subject 1. As Subject 1 ran southbound, Officer A observed him take the mask off his face and throw it on the ground.

As Subject 1 neared the alley under the "L" tracks, Officer A observed him pull a firearm from the right side of his waist area. Subject 1 held the firearm by his side as he ran, and Officer A issued several verbal challenges for Subject 1 to "Stop," and "drop the gun."

Subject 1 slowed to a stop, and began to look in all directions. Officer A took cover behind a nearby trash can. Officer A observed that Officer C was approaching Subject 1 from the south. At this time, Officer A observed Subject 1 raise his firearm, and point it at Officer C.

Fearing for the life of Officer C, Officer A fired his weapon at Subject 1 eight (8) times. Subject 1 fell to the ground, at which time Officer A approached him. Officer A rolled Subject 1 over, and observed that Subject 1 had been struck. Officer A also observed that

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Subject 1's firearm (the .40 caliber Hi Point) had landed on the ground underneath Subject 1. Officer A kicked the firearm away from Subject 1, and handcuffed him.

Officer A immediately requested medical attention for Subject 1. Subject 1 was transported to Mount Sinai Hospital, where he was pronounced deceased at 2332 hours.

In a later interview, Witness 2 related that hours before this incident, Subject 1 stated words to the effect of "I don't care about dying; I'm shooting at anybody that comes my way"¹

INVESTIGATION:

The **Department Reports** list Subject 1 as the offender in a Home Invasion at XXXX S. Spaulding. The reports further indicate that Subject 1 was shot and killed by responding CPD officers. The Departmental Reports are consistent with the summary within this report, and the statements provided by the involved officers.

The Post Mortem Examination of Subject 1 revealed that he had been shot in the right flank, and that the bullet path traveled through to the right side of his neck, where the bullet exited. The bullet pierced Subject 1's right kidney, and right lung. Doctor A opined that Subject 1 was bent forward at the time this bullet struck him.

Doctor A related that Subject 1 had been shot once, and that the cause of death was a gunshot wound; with the manner of death being homicide.

The **Tactical Response Reports (TRR'S)** completed by Officer A and Officer C documented that Subject 1 "did not follow verbal direction," "fled," was an "imminent threat of battery," "attacked with weapon," and "used force likely to cause death or great bodily harm" with a "weapon." The Officers responded with "member presence," "verbal commands," and the use of his "firearm."

The Officers Battery Report completed by Officer A and Officer C documented that none of the officers received any type of injury; though Subject 1 pointed his firearm at Officer C.

The OEMC Reports were collected and made part of this case file. An analysis of said documents show no information that is inconsistent with the facts as related by the involved and witness officers.

It is noted that the first 911 caller identified herself as [Mother of Witness 2], who is the mother of Witness 2. [Mother of Witness 2] requested that the police respond to the area of 19th and Kedzie, as she has received information that her son (Witness 2) was in that area, with a firearm.

¹ Detective Supplementary Report, Att. 63, Page 29

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A **Canvass** of the incident location produced one witness, Witness 1. Witness 1 of XXXX S. Christina reported that he heard approx. five (5) gunshots coming from the alley behind his home. When he looked outside, he saw a male black, wearing a black jacket, lying on the ground. Witness 1 saw a black in color firearm lying on the ground next to the person. Witness 1 related that a police officer ran up, and placed the person (Subject 1) in handcuffs. Attempts to gather statements from other persons in the area were met with negative results.

It is noted that there is no physical or testimonial evidence that refutes the statements provided by the involved officers.

Illinois State Police Forensic Science Laboratory Reports document the examination of the recovered ballistic evidence, in comparison to the firearm belonging Officer A. It was determined that all of the eight (8) shell casings recovered at the scene of this event were fired from Officer A's Sig Sauer 9mm pistol, serial #U643990.

A DNA profile consistent with the control sample taken from Subject 1 was discovered on the black in color mask he (Subject 1) discarded while in flight from Officer A.

A Gunshot Residue test did not indicate that Subject 1 may have discharged a firearm. The report opines that if he had, the particles consistent with gun shot residue were either eliminated through inadvertent action, or not detected otherwise.

The .40 caliber Hi-Point semi-automatic firearm possessed by Subject 1 was test fired. The weapon was found to be in proper firing condition.

In a statement to IPRA on 03 July 2009, Witness 2 confirmed that he provided Subject 1 with two pistols, one of which was the .40 caliber Hi-Point semi-automatic. Witness 2 related that Subject 1 initiated a home invasion armed robbery at XXXX S. Spaulding, and had fled the scene on foot. Witness 2 did not witness the contact that Subject 1 would later have with responding CPD officers.

In a statement to IPRA on 17 February, 2012, Officer A stated related the facts concerning his involvement in this event in a manner consistent with the Departmental Reports, the Roundtable Report, and the Summary contained within this report.

Officer A stated that Subject 1 pointed a firearm at Officer C, and it appeared that Subject 1 was aiming the firearm at Officer C. Officer A advised that he fired his weapon multiple times, in an effort to protect the life of Officer C.

In a statement to IPRA on 31 May 2012, Officer C related the facts concerning his involvement in this event in a manner consistent with the Departmental Reports, the Roundtable Report, and the Summary contained within this report. Officer C related that he was involved in a foot pursuit, in an effort to apprehend (a male black now known as) Subject 1.

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As Officer C was attempting to intercept Subject 1, he found himself in sudden close proximity to Subject 1. Officer C related that Subject 1 “pop out”² out of a vacant lot and that, “swings his arm – his right arm – up my way. He has something in his arm but I don’t what’s in his arm. I can’t see.”

Officer C stated that “When (Subject 1) popped out and his arm was coming up I heard – I heard some shots. I’d say – I don’t know, four to six shots.”³

Officer C also related that after the shots, he assisted in securing Subject 1, and that he observed a firearm on the ground next to Subject 1.

In a statement to IPRA on 11 September 2012 Officer D, related the facts concerning her involvement in this event in a manner consistent with the Departmental Reports, the Roundtable Report, and the Summary contained within this report.

Officer D related that she was behind Officer A during the foot pursuit, and was trailing Officer A by approx. twenty (20) feet. Officer D heard Officer A yell, “Stop police, and drop the gun;”⁴ while pursuing Subject 1. Officer D observed Subject 1 raise his right arm as he turned the corner into the alley adjacent to the “L” tracks; Officer D subsequently heard six (6) gunshots, and saw muzzle flash from Officer A’s weapon.

Officer D related that she did not have a direct line of sight towards Officer A and/or Subject 1 at the moment the shots were fired. When Officer D again saw Subject 1, he was lying on the ground, and there was a firearm next to him.

² Transcribed statement of Officer C, Att. 72, Page 8, Line 20.

³ Transcribed statement of Officer C, Att. 72, Page 9, Lines 9-11

⁴ Transcribed statement of Officer D, Att. 124, Page 8, Lines 12-13

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CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A, was **Justified** and 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."

On 2 July 2009, Subject 1 committed a home invasion armed robbery at XXXX S. Spaulding. As he fled this location on foot, Subject 1 encountered Officer A, who was in the area on a related 'person with a gun' call.

A pursuit ensued, during the course of which Subject 1 brandished a .40 caliber Hi-Point pistol. Officer A was in close pursuit, and additional officers began to converge in the area. As the pursuit continued to the alley adjacent to XXXX S. Christina, Officer C began to approach Subject 1 from the south end of the alley.

Officer A observed Subject 1 raise his pistol, and point it at Officer C. Fearing for the life of Officer C, Officer A fired his weapon at Subject 1 eight (8) times, striking him once.

Though medical attention was sought immediately, Subject 1 expired as a result of his injuries.

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Evidence Technician photographs documented the scene and the gunshot wound to Subject 1. The photographs are consistent with the information officers related in their statements.

Officer A was in accordance with the statute “to prevent death or great bodily harm to the sworn member or to another person” because he reasonably believed Officer C life was in danger when Subject 1 lifted his arm with a gun and pointed in Officer C’s direction. The reports document that there was a high likelihood that Officer C was in danger of “great bodily harm” described in the statute; if Officer A did not stop the threat on his life, by discharging his weapon.