

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1028122/U #09-27

INVESTIGATION

NUMBER: Log #1028122/U#09-27

INVOLVED

OFFICER: "Officer A" (Chicago Police Officer); Male/Hispanic; 44 years old;
On Duty; In Uniform; Year of Appointment – 1998

**OFFICER'S
INJURIES:** None Reported

SUBJECT: "Subject 1"; Male/Black; 23 years old (Deceased)

SUBJECT'S

INJURIES: One gunshot wound to chest; one graze wound to right arm.
Pronounced dead at Christ Hospital.

DATE/TIME: 13 July 2009; 0530 hours

LOCATION: XXXX W. 64th St., #XX
Beat 823

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SUMMARY OF INCIDENT:

On 13 July 2009, at approximately 0530 hours, Officers A and B, monitored an Office of Emergency Management and Communication radio call of a “man with a gun” in the vicinity of 6400 S. California. The officers were then given an update to respond to the rear of 6XXX S. Mozart along with Officers C and D.

When the officers arrived they were met by Witness 3. Witness 3 informed the officer that he had keys to the rear gate of XXXX W 64th St, but was still unable to unlock the 6’0” steel gate. Officers B, C, and D went to the front of the building in an attempt to gain entry while Officer A remained in the rear of the building with Witness 3.

Officer A scaled the fence that separates Witness 3’s property from XXXX W. 64th St with a ladder provided by Witness 3. Officer A asked Witness 3 to verify the location of the incident and Witness 3 pointed to the second floor door.

Officer A ran up the back stairs and found the door to be unlocked. Officer A entered the apartment and after a few moments encountered Subject 1 holding a gun in his hand. Officer A ordered Subject 1 to drop the gun, but Subject 1 raised the gun in Officer A’s direction. Officer A discharged his firearm once, striking Subject 1’s chest.

Officer A again ordered Subject 1 to drop the gun and sit down on a couch. Subject 1 complied. Officers B and C entered the apartment and Officer C secured the gun that Subject 1 dropped. Officer B recovered a second gun from a chair located across from where Subject 1 was seated.

Officer A radioed dispatch and requested an ambulance. Subject 1 was transported to Christ Hospital where he was pronounced dead. Police personnel inventoried two handguns from Subject 1’s residence; a .45 Caliber, semi-automatic

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Glock, found at the scene and a .357 Smith & Wesson Revolver, that was in the possession of Subject 1.

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Witness 1 related to the Roundtable Panel on 13 July 2009, that she and some of her friends, including Subject 1, were together on 12 July 2009. Witness 1 stated that she and Subject 1 returned to his apartment at approximately 2300 hours and she fell asleep on the living room couch.

At some time in the early morning Subject 1 requested sex from her and she refused. Subject 1 then ordered her to leave his apartment but she refused, explaining that she did not want to walk home in the dark. Witness 1 asked Subject 1 to call a cab for her. Instead, Subject 1 called an unknown female and asked if she would take Witness 1 home. Witness 1 heard Subject 1 say, "I'll take care of it." The unknown female did not come to Subject 1's apartment. Subject 1 told Witness 1 that he called a cab, but she would have to pay for it. Witness 1 got dressed and started to walk toward the front door.

Subject 1 became angry and grabbed and pushed Mr. Yarbrough to the floor. Witness 1 heard a car horn and got to her feet and ran screaming to the front window which was open. Subject 1 placed a large black gun to the left side of her head and told her to "Shut up!" Witness 1 was able to grab her cell phone and dialed "911." Witness 1 yelled into the phone, "Dude's got a gun to my head!" Subject 1 grabbed the phone and broke it.

Witness 1 ran through the apartment and out of the apartment through the back door. Subject 1 followed her and grabbed her by her arms. Subject 1 and Witness 1 fell to the floor and he began to choke her until she lost consciousness for a few moments. When she awakened she was back inside the apartment.

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Subject 1 told her to go into the bathroom. Witness 1 walked into the bathroom while Subject 1 walked into the bedroom. Subject 1 then walked to the bathroom holding a large silver gun in his right hand. Subject 1 pointed the gun in Witness 1's direction.

Witness 1 then heard a male voice yell, "Police! Drop the gun down!" While still holding the gun, Subject 1 turned toward the voice. Witness 1 heard a single gunshot, but did not see who was shooting. Witness 1 stated that Subject 1 remained standing as she ran past him and a police officer through the rear door of the apartment.

In a statement to IPRA on 13 July 2009, Witness 1 stated that on the night of the incident she was out with some friends, including Subject 1. Between 0030 and 0100 hours Witness 1 and Subject 1 returned to his apartment and they had "physical relations." Witness 1 stated she then fell asleep on Subject 1's couch. At approximately four o'clock in the morning, Subject 1 awakened Witness 1 and attempted to have sex with her, but she refused. Subject 1 then told her to leave. Witness 1 told Subject 1 that she was not leaving and walking home in the dark. Subject 1 called an unknown female and asked her drive Witness 1 home. The unknown female refused. Witness 1 walked toward the front door and Subject 1 pushed her down to the floor.

Witness 1 heard a car horn out front and she ran to the living room in the front of the apartment. Witness 1 opened a front window and saw a cab on the street. Witness 1 screamed for help. Subject 1 grabbed Witness 1 from behind and placed a large black semi-automatic handgun against the left side of her head and said, "Shut the fuck up!" Witness 1 stated that she managed to get her cell phone and call "911" and told the call taker, "Dude's got a gun to my head." Subject 1 grabbed the phone from her and broke it.

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Witness 1 ran to the back of the apartment but Subject 1 grabbed her by the back of her shirt and threw her to the floor. Subject 1 used both of his hands and choked Witness 1. Subject 1 let go of Witness 1 and walked to the front window and closed it. Witness 1 then ran out of the apartment through the rear door and to the rear stairwell. Subject 1 chased her and grabbed her by her waist while she hung onto the banister. Subject 1 pulled Witness 1 and they fell to the floor. Subject 1 then choked Witness 1 until she lost consciousness.

When Witness 1 regained consciousness, Subject 1 pulled her to her feet and told her to go into the bathroom. Witness 1 did as Subject 1 instructed while Subject 1 walked into a bedroom. A few moments later Subject 1 exited the bedroom and walked into the bathroom holding a large silver gun in his right hand. Subject 1 pointed the gun in Witness 1's direction.

Witness 1 then heard a male voice yell, "Police! Put down the weapon!" Subject 1 turned toward the voice and Witness 1 heard a gunshot. Subject 1 remained standing while still holding the gun. Witness 1 then ran out of the apartment and saw a police officer, now known as, Officer A, running toward Subject 1. Additional officers arrived on the scene and Witness 1 was instructed to wait on the rear porch.

In a statement to the Roundtable Panel on 13 July 2009, **Witness 2** stated that she and her husband, Witness 3, were in bed when she heard a female voice screaming from the building next door. Witness 2 got out of bed and walked to her kitchen and looked out the window that faces the rear courtyard at XXXX W. 64th St.

Witness 2 saw a black male, now known as Subject 1, on the rear landing of the second floor. Witness 2 saw Subject 1 choking a woman now known as Ms. Witness 1.

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Witness 2 heard Witness 1 screaming, "Help me! Oh God!"

Witness 3 handed Witness 2 the telephone and she dialed "911." Witness 2 told the call taker that a female was being abused and requested the police to the rear of the building at XXXX W. 64th St.

Witness 3 walked outside and waited for the officers in the rear of the building. Witness 2, from the kitchen window, saw Subject 1 drag Witness 1 back into his apartment. Witness 2 saw Witness 3 give a male/black uniformed police officer a ladder. The officer then scaled the fence and approached the second floor apartment.

Witness 3 confirmed that the police officer was at the right apartment door. The officer opened the apartment door and Witness 2 could still hear Witness 1 screaming. Witness 2 then heard a single gunshot. (Att. 4)

In a statement to IPRA on 13 July 2009, **Witness 2** stated that she heard a female (NKA Witness 1) loudly screaming, "He's choking me! Please Help!" Witness 3 grabbed a set of keys and left the apartment while she telephoned "911." Witness 2 told the call taker that there was a young lady yelling for help, and that the officers need to go the rear of the building through the alley.

Witness 2 then saw a black male, now known as, Subject 1, who appeared to be choking Witness 1, who yelled, "Oh no! Help me somebody!" Subject 1 then dragged Witness 1 inside his apartment.

The call taker told Witness 2 that the police were on their way and Witness 2 then hung up. Witness 2 walked to her bedroom and looked out the window that faces the rear yard. Witness 2 saw Witness 3 hand Officer A a ladder. Officer A then scaled the fence and ran up the stairs of the rear landing and pushed open the apartment's rear door.

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Witness 2 heard more screaming and a single gunshot.

In a statement to the Roundtable Panel on 13 July 2009, **Witness 3** stated that he and his wife were asleep in their bedroom when he was awakened by a woman screaming in the back of the building. Witness 3 awakened his wife and they ran to the kitchen and looked out the window. Witness 3 handed his wife the telephone and told her to call “911.” Witness 3 grabbed two sets of keys and ran out to the back of the building.

Witness 3 attempted to open the back gate to XXXX W. 64th St., but was unsuccessful. Four uniformed officers arrived and three of the officers ran to the front of the building. The fourth officer, now known as Officer A, remained in the back with Witness 3. Officer A scaled the back fence with a ladder that Witness 3 had provided and approached the rear door of the second floor apartment. Officer A then entered the apartment and Witness 3 heard him yell, “Drop the gun!” Witness 3 then heard one gunshot.

In a statement to IPRA on 13 July 2009, **Witness 3** stated that he was in his bedroom when he heard a woman screaming from an apartment next door. The woman is now known as Witness 1. Witness 3 heard Witness 1 screaming, “He’s choking me! Please help!” Witness 3 and Witness 2 ran into the kitchen and opened the window that faces the rear courtyard. Witness 3 told Witness 2 to call “911.”

Witness 3 retrieved a set of keys for the back gate and ran outside to open the gate but could not. Two police vehicles pulled into the alley and one or two officers ran around to the front of the building while another officer, now known as Officer A, approached Witness 3. Witness 3 gave Officer A a ladder and Officer A scaled the fence leading to the rear yard of Subject 1’s apartment building.

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Officer A asked Witness 3 to confirm that he was entering the correct apartment. Witness 3 indicated the second floor apartment. Officer A ran up the rear stairs and pushed open the rear door to the second floor apartment. Witness 3 heard Witness 1 screaming and then heard Officer A yell, "Drop the gun!" Witness 3 then heard a single gunshot.

Attempts to interview Denise Walker, Christian (AKA "Christopher" and "Earl") were unsuccessful.

The **Case and Tactical Response Reports** contained accounts of the incident that were consistent with the accounts provided to the Roundtable panel and the Summary of Incident. (Att's 28-34)

The **Crime Scene Processing Report** stated that the .357 Smith & Wesson Revolver that was recovered from Subject 1's residence was inventoried and found to be loaded with six live cartridges. The .45 Caliber Glock recovered from Subject 1's residence was found to have one live cartridge in the chamber and four live cartridges in the magazine.

Evidence Technician photographs depict the location of incident. The ET photos also depict what appears to be a gunshot wound to the right side of the victim offender, Subject 1's chest.

A **report from the Illinois State Police Division of Forensic Services dated 02 September 2009** stated that Officer A's 45 caliber blue steel Smith and Wesson firearm was examined and found to be in firing condition. The recovered fired bullet was determined to have been fired from Officer A's firearm.

The two firearms, a 357 Smith and Wesson Magnum revolver, and a Glock,

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model 37, 45 GAP semiautomatic pistol, were recovered from Subject 1's residence were examined and found to be in firing condition.

A **canvass** of the location of incident conducted on 13 July 2009 at 1000 hours, did not produce any additional witnesses or information.

The Office of the Medical Examiner Post Mortem Examination Report dated July 31, 2009 stated that Subject 1 sustained a gunshot wound to the chest involving the right lung. The report stated that Subject 1 died of gunshot wound to his chest.¹

Officer C related to the Roundtable panel that he and his partner, Officer D, responded to an OEMC call of a "man with a gun" in the vicinity of 64th California and Mozart. The officers traveled northbound on California, turned westbound on 64th Street, and pulled into an eastbound alley. They met with Officers A and B. Officers B, C, and D went to the front of XXXX W. 64th Street in an attempt to make entry but were unable to.

Officer A remained in the rear of the building and went through the gangway into the rear yard of Witness 3. The officers then used a ladder and climbed over the fence and into the rear yard of XXXX W. 64th Street. Officer D ran up the stairs first followed by Officer C and Officer B. As Officer C made it up the stairs, he heard Officer A yell, "put down the gun!" Officer C then heard one shot. As Officer C entered the apartment, Officer A instructed him to move a gun out of the reach of Subject 1 who was slouched backward onto a sofa. Subject 1 had a gunshot wound to his chest.

In a statement to IPRA on 23 November 2011, **Officer C** stated that on the night of the incident he was working with Officer D. Officer C stated that he and Officer D

¹ The Medical Examiner also reported a graze wound on Subject 1's right arm. This was caused by the single round fired by Officer A that grazed the arm prior to entry into the chest cavity.

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responded to a “man with a gun” call. Prior to arriving at the location of incident Officer C stated that they monitored a second radio call of “a male with a gun dragging a female into the back of the house”.

Officers A and B were already at the location when Officers C and D arrived. Officers B, C, and D ran to the front of the residence and Officer A remained at the back of the residence.

Officer C stated that he could hear a woman screaming. Officer C said that he and Officers B and D rang multiple apartment bells in an attempt to gain entry to the apartment complex but no one answered. Officers B, C, and D ran back to the rear of the building and saw Officer A running up to rear stairwell. Officer C stated that as they climbed the ladder they heard Officer A yell, “Police! Drop it!” Officer C then heard a gunshot. Officer C stated that when he entered the residence, he saw Subject 1 sitting on the couch in the living room. Subject 1 was reaching for a gun near his left side. Officer C grabbed the gun and held on to it. Officer A radioed OEMC and requested an ambulance.

In a statement to IPRA on 23 November 2011, **Officer D** related that upon arrival at XXXX W. 64th St., #XX, Officer D, B, and C ran around to the front of the apartment building in an attempt to gain entry into the building, but were unsuccessful. Officer A remained in the rear with the citizen, now known as Witness 3. Officer D stated that he and Officer B then ran around to the back and saw that one of the neighbors had given Officer A a ladder to climb over a fence. Officer A was already at the top of the stairs. Officer A entered the apartment.

Officer D stated that as he and the other officers scaled the fence and up the rear

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stairs he heard Officer A yelling, “Stop! Don’t move! Drop it! Drop it!” Officer D then heard a single gunshot. Officer Flag stated that he ran up the stairs and into Subject 1’s apartment where he saw Officer A standing near Subject 1, who was sitting on a couch. Officer D stated that they recovered the two handguns. Officer D stated that Officer A radioed for an ambulance.

Officer B related to the Roundtable panel that he and Officer A responded to a call of a “man with a gun” at XXXX W. 64th St, Apt. XX. Upon arrival, the officers were met by Beat 832R manned by Officer C and Officer D. The officers drove into an alley between 64th California and 64th Mozart. The officers observed a male Hispanic, now known as Witness 3, attempting to open a gate.

Officers B, C, and D ran to the front of the building in an attempt to gain entry. The officers were unable to make entry in the front of the building so they ran to 64th and Mozart and through a gangway to the rear of Witness 3’s property. Officer B and the other officers used the ladder to climb over the fence and ran up the rear stairs of XXXX W. 64th Street.

As Officer B made it over the fence, he heard one gun shot. Officer B entered the residence and observed Officer A with his weapon drawn and pointed at Subject 1 who was slouched backward onto a sofa. Officer B then observed a 9mm weapon on the seat of a chair located across from Subject 1’s body. Officer B unloaded the weapon and held it for forensic investigators.

In a statement to IPRA on 08 December 2011, **Officer B** stated that on the night of the incident he was working with Officer A. Officer B stated that when they arrived at the location of incident, a neighbor, now known as Witness 3, told them that he saw a

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man with a gun drag a woman into an apartment.

Officer B stated that he and Officers C and D went to the front of the building in an attempt to gain access to the apartment building. Officer A remained in the back of the building with Witness 3. Officer B stated that when they failed to get into the apartment building from the front, they ran back to the rear of the building. Officer B saw a ladder and realized Officer A had gotten into the apartment through the rear. Officer B stated that he and the other officers scaled the ladder and entered the apartment.

Officer B stated that he was the last officer to enter the apartment. Officer B stated that he did not see Officer A discharge his firearm. When he entered the apartment, he saw a person, now known as Subject 1, sitting on the couch. Officer B stated that he recovered a semi-automatic handgun from a chair in the Subject 1's living room.

Officer A related to the Roundtable Panel that he and his partner, Officer B, were assigned a call from OEMC of a "man with a gun" in the vicinity of 64th California and Mozart. They were later given an updated address of 6XXX S. Mozart (alley). The officers arrived at the location and were met by Unit 832R manned by Officers C and D. The officers met with an Hispanic male, now known as Witness 3.

Witness 3 attempted to open the gate to XXXX W. 64th Street, but could not gain entry. Officers B, C, and D ran to the front of the building leaving Officer A in the rear with Witness 3. Officer A pointed to a chair and asked Witness 3 in Spanish to hand him the chair but Witness 3 went to his garage and brought a ladder.

Officer A heard screams and climbed over the fence and ran up the stairs. As he reached the residence, Officer A confirmed the location of the apartment with Witness 3. Officer A drew his weapon and opened the door. As he entered the residence, he walked

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through the kitchen and off to his left, he observed Subject 1 holding a large caliber weapon in his hand. Officer A yelled, "Police, drop the weapon!" Subject 1, with the weapon in his hand, raised it and turned toward Officer A. Officer A discharged one round in the direction of Subject 1.

Officer A again ordered Subject 1 to drop his weapon. Subject 1 then walked backwards and sat down on a couch and dropped the weapon by his foot, but still within his reach. Officer A radioed for an ambulance, made notifications and waited for supervisors and other police personnel.

In a statement to IPRA on 08 December 2011, **Officer A** stated that on the night of the incident he was working with Officer B. They responded to "man with a gun call XXXX W. 64th Street." As they proceeded to the location of incident they heard another call of "a person calling for help in the alley." Upon their arrival they saw an elderly man, now known as, Witness 3, in the alley. Officer A stated that he exited the squad car and heard someone screaming, "Let me go! Let me go! Please let me go!" Officer A stated that he remained in the alley with Witness 3 while Officers B, C, and D, went around to the front of the apartment building.

Witness 3 told Officer A that he saw Subject 1 drag Witness 1 into his apartment. Witness 3 then retrieved a ladder from his garage and Officer A scaled the fence. Officer A walked up the stairs to the second floor. Officer A opened the rear door of the apartment and entered the kitchen.

Officer A stated that as he walked further into the apartment, he saw Subject 1 walking with a silver revolver in his hand. Officer A ordered Subject 1 to drop his gun. Subject 1 turned toward Officer A and raised the gun. Fearing for his life, Officer A

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discharged his firearm once at Subject 1. Subject 1 looked at Officer A and said, “You shot me.” Officer A again told him to drop his gun and he did.

Subject 1 then sat down on a couch. Officer A then kicked the gun away from Subject 1 and radioed for an ambulance. The other officers then entered the residence and Officer B discovered the second gun across from Subject 1.

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CONCLUSION AND FINDINGS:

This investigation found that Officer A's use of deadly force was in compliance with Chicago Police Department policy. 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 involved the infliction, threatened infliction, or threatened use of physical force like to cause death or great bodily harm;
 - b. attempted 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 met the requirements of the Department's deadly force policy. The involved officer and witness officers provided separate and consistent accounts of the incident. Subject 1 refused to comply with the Officer A's orders to drop his gun, and instead pointed it at Officer A. Fearing for his safety and the safety of the victim, Witness 1, Officer A discharged his firearm at Subject 1.

It was reasonable that Officer A feared for his safety. Officer A's account of the incident is corroborated by statements of witnesses, Witness 1, and Witness 3 and

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Witness 2. Witness 1 stated that Subject 1 battered her and pointed a gun at her during the altercation prior to the arrival of the police. Witness 3 and Witness 2 saw Subject 1 choking Witness 1 and dragging her into the apartment.

Two handguns including the weapon that was pointed at Officer A, and suspect narcotics were recovered from Subject 1's apartment and inventoried in accordance with police department procedures