

INDEPENDENT POLICE REVIEW AUTHORITY  
LOG# 1028237/U#09-30

**INVESTIGATION**

**NUMBER:** LOG# 1028237/U# 09-30

**OFFICER #1**

**INVOLVED:** “Officer A” (Chicago Police Officer); Male/Black; 41 years old; On Duty;  
In Uniform; Year of Appointment – 1998

**OFFICER #1’S**

**INJURIES:** None reported

**OFFICER #2**

**INVOLVED:** “Officer B” (Chicago Police Officer); Male/White; 27 years old; On Duty;  
In Uniform; Year of Appointment – 2005

**OFFICER #2’S**

**INJURIES:** None reported

**SUBJECT:**

“Subject 1”; Male/Black; 38 years old

**SUBJECT’S**

**INJURIES:** Gunshot wound to right arm. Treated at Roseland Community Hospital  
and Mount Sinai Hospital.

**INITIAL**

**INCIDENT:** Officers heard multiple shots fired in the area while they were conducting  
a field interview.

**DATE/TIME**

**OF INCIDENT:** 15 Jul 09, 2346 hours

**LOCATION:**

11XXX S. Yale, Residential Rear Yard  
**Beat 522**

**SUMMARY OF INCIDENT:**

On 15 Jul 09 at approximately 2346 hours, Officer A and Officer B were working Beat 42G71C, in full uniform and were conducting a field interview in the vicinity of 118<sup>th</sup> Street and Yale Avenue when they heard multiple gunshots. The officers ended their interview, reported the gunshots over the radio and drove north on Yale toward the direction of the gunshots. As they approached 11XXX S. Yale Avenue, citizens on the east side of the street got their attention and indicated that the gunshots were coming from the west alley behind 11XXX S. Yale Avenue. The officers exited their squad car and Officer A walked west on the driveway south of the address; Officer B went west through the gangway to the north of the location. Officer A observed two male black subjects approaching him with guns in their hands. Officer A announced his office and ordered them to drop their weapons. One of the subjects, who was wearing a white shirt, pointed his gun at Officer A and Officer A fired one shot at the male subject. Both male black subjects fled north. Officer B observed the two armed men jump over the fence into the yard where he was located and announced his office to the two male black subjects and ordered them to drop their weapons. One of the men, who was wearing a maroon shirt, now identified as Subject 1, pointed his gun at Officer B and Officer B fired two shots, striking Subject 1 in the arm. Subject 1 fell to the ground and crawled toward the fence at the north end of the yard. The second male black subject, wearing the white shirt, jumped over the fence and ran north. Officer B kept Subject 1 on the ground at gunpoint. Citizens came to the scene and started to crowd around Officer B so he radioed for assistance. Additional officers arrived, including Officer A, who had been chasing the male black subject in the white shirt. Subject 1 was taken into the custody and transported to Roseland Community Hospital and was treated for a through-and-through gunshot wound to the inside right forearm. There was an indication of tendon damage, so Subject 1 was transported to Mount Sinai Hospital for further treatment. The unknown male black subject made good his escape. Three weapons were recovered from the yard, including the two guns that Subject 1 was carrying and the weapon of the unknown male black subject. Subject 1 refused to make any statements regarding the incident. (Att. 13)

## INVESTIGATION:

**Officer A related to the Roundtable Panel** an account that was consistent with the Summary of Incident. Officer A related that during the course of a field interview he and Officer B heard more than thirty gunshots coming from the direction of 115<sup>th</sup> Street. Officer A and Officer B drove in the direction of the gunshots, which were still being fired. Upon arriving in the vicinity of 11XXX S. Yale they were informed by citizens that the gunshots were coming from the rear of 11XXX S. Yale. Officer A withdrew his weapon from the holster and entered the gangway/driveway area south of 11XXX S. Yale, which is the residence immediately south of 11XXX S. Yale and Officer B went west though the gangway of 11XXX S. Yale, immediately north of 11XXX S. Yale. As Officer A approached a crosswalk he observed two male black subjects coming from the rear of the house with guns in their hands. One subject wore a white shirt and the other subject wore a red shirt.<sup>1</sup> Officer A was unable to describe the guns in their hands due to the lighting conditions but was able to clearly see that they were holding guns. Officer A placed himself in a position to fire and said, "Chicago Police." The unknown male subject in the white shirt raised his gun and pointed it at Officer A. Officer A fired his weapon once. Both men ran north and jumped over the fence into the adjacent yard, right into the area that Officer A had observed Officer B entering. Officer A went to the alley to cut off any attempt to escape via the rear. As Officer A approached the alley, he heard Officer B say, "Chicago Police," and heard gunshots. Officer A ran north and observed the unknown male black subject fleeing north and he pursued him. Officer A ended his pursuit and returned to assist Officer B when he heard him call for help and report a 10-1 over the radio. (Att. 13)

**Officer B related to the Roundtable Panel** an account that was consistent with the Summary of Incident. Officer B stated he walked through the gangway between 11XXX and 11XXX S. Yale and upon reaching the rear yards he heard Officer A yell, "Chicago Police!" and heard one gunshot. Officer B heard what he described as a person jumping over a fence and then observed the unknown male black subject and Subject 1 come over the fence. Both men were holding guns and Officer B observed that Subject 1's gun was black. Officer B withdrew his gun and yelled, "Chicago Police!" The unknown male black subject continued running north through the yard, Subject 1 turned his body toward Officer B and raised his weapon, pointing it at Officer B. Officer B, who was approximately 5-10 feet away from Subject 1, fired his gun twice at Subject 1. Subject 1 dropped his gun and tried to continue forward but he fell to the ground. Subject 1 tried to crawl to the fence. Officer B approached Subject 1 and ordered him to show his hands. Officer B used his radio to report the shots fired and requested additional units and an ambulance. People came into the yard and started approaching Officer B who then called for immediate assistance. Additional officers arrived, including Officer A. Subject 1 was taken into custody.  
(Att. 13)

**In a statement to the IPRA on 03 March 2011 the Involved Member, Officer A,** provided an account that was consistent with the Summary of Incident, related Department

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<sup>1</sup> The subject in the white shirt made good his escape and is remains unidentified. The subject in the red shirt is now known to be the subject, Subject 1.

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reports and account he provided to the Roundtable panel. Officer A stated he and his partner, Officer B, were at 118<sup>th</sup> and Yale, in the middle of a field interview, when they heard shots fired and responded to the direction the shots were coming from. Upon arriving in the general vicinity of the shooting, the officers were directed to 11XXX S. Yale by members of the Witness 1 family who live on the street.<sup>2</sup> Officer A withdrew his weapon after entering the yard because he had already been told that people had guns, he could still smell gunpowder in the air and was in fear of his safety. Officer A entered what he described as a side drive next to the residence. Officer A stated there was an SUV parked in the drive, near the middle of the house and next to a fence. Officer A walked between the house and the SUV. Officer A walked alongside the vehicle and when he approached the rear half of the vehicle, he observed two males approach him with guns in their hands. Officer A did not think either of the males immediately saw him due to the way they were jogging out of the yard. Officer A was able to discern they were carrying guns because he was able to make out the shape of the guns due to the lighting from the alley. Officer A stated he immediately announced his office and ordered the two male subjects to drop their weapons. The two males responded by raising their guns and, in fear of his life, Officer A fired two rounds. The two male subjects fled into the yard and jumped the fence into the yard where Officer A knew Officer B was located. Officer A immediately heard Officer B yell, "Chicago Police! Drop your weapons!" Officer A then heard gunshots. Officer A ran towards the alley and again announced his office. Officer A observed that Officer B had one of the subjects in custody. Officer B told Officer A that the other male subject had gone north so Officer A went in pursuit of him but could not locate him. Officer A made the notification of shots fired then returned to Officer B's location where he learned that the subject in custody, Subject 1, had a weapon on his person. (Att. 69, 70, 71, 73)

**In a statement to the IPRA on 10 March 2011 the Involved Member, Officer B,** provided an account that was consistent with Summary of Incident, related Department reports and the account he provided to the Roundtable panel. Officer B stated that while conducting a field interview at 118<sup>th</sup> and Yale, he and Officer A heard approximately thirty gunshots fired in the near vicinity. Officer A got on the radio and reported that they had heard loud reports. The officers headed north, in the direction of the sounds of gunfire, towards 116th Street and Yale Avenue. As they approached 11XXX S. Yale, Officer B could smell gun powder in the air and directed Officer A to stop the squad car. Upon stopping they observed a group of people on a porch; the individuals were screaming and pointing across the street and saying, "They're in the yard." The officers exited the squad car and Officer B went into the gangway of 11XXX S. Yale Avenue and Officer A went into the gangway one house to the south, at 11XXX S. Yale Avenue.

Upon entering the gangway of 11XXX S. Yale Avenue, Officer B withdrew his gun because he heard a lot of gunfire in one of the backyards. As Officer B approached the end of the gangway he heard Officer A yell, "Police!" then heard one or two gunshots. Officer B thought that Officer A could possibly have been shot. Officer B then observed a male black subject in a white t-shirt come over the fence, holding what Officer B described as a silver object that looked like a gun in his right hand. Officer B yelled, "Police!" The male black subject never stopped running. He hopped a fence to Officer B's left, continuing north, then hopped the next fence and was out of Office Kinney's line of vision. Immediately following the male black subject was another male black subject, Subject 1, who also jumped the fence. Officer B could

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<sup>2</sup> Officer A stated he is familiar with the family from other incidents in the neighborhood.

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see that Subject 1 also had a gun in his hand. The gun was dark colored, possibly blue steel. Officer B yelled "Police!" again and Subject 1 turned towards Officer B and pointed his weapon at him. Officer B, in fear of his life, fired twice at Subject 1. Officer B stated he was standing approximately five to ten feet away from Subject 1 when he fired and did not have an opportunity to seek cover. After Officer B fired the second shot, Subject 1 dropped the gun. Subject 1 tried to go north but he fell to the ground and crawled to the fence. Officer B stated he yelled at Subject 1, "Let me see your hands, let me see your hands!" Subject 1 got to the end of the fence, turned and put his back against the fence, so he was facing Officer B and said, "You shot me, you shot me." Officer B got on the radio and announced shots fired by the police, called a 10-1 and requested an ambulance. Officer B stated he had good artificial lighting from the street light. (Att. 68, 72, 74)

A **Canvass** of the vicinity of the incident produced no additional witnesses or information. (Att. 18)

**Subject 1** refused to cooperate with the investigation. IPRA Investigator A, attempted to interview Subject 1 on the night of the incident, but Subject 1 refused. IPRA Investigator B attempted to interview Subject 1 at Cook County Jail on 24 July 2009. Subject 1 refused to provide a statement before he consulted his attorney. Subject 1 identified his attorney as Attorney A. Attorney A identified Attorney B as the attorney representing Subject 1 in this case. In a telephone conversation with Attorney B on 28 July 2009, Attorney B told IPRA Investigator B that he would contact Subject 1 and then schedule a statement. Subsequent attempts to contact Subject 1 and Attorney B by Certified Mail and telephone met with negative results. (Att. 15, 16, 44-47, 54, 55, 61, 63, 64, 76)

Attempts to interview potential witnesses **Witness 1** and **Witness 2** were met with negative results. They failed to cooperate with the investigation.

Department records for Witness 1 and Witness 2 indicate they were arrested for Obstructing an Officer. Witness 2 and Witness 1 refused to leave the rear yard of 11XXX S. Yale Avenue where officers were searching for evidence, stating that Subject 1 was their relative and they wanted to make sure he was getting medical attention. After repeatedly being asked to leave and refusing to do so, they were both placed under arrest for impeding the investigation. On 16 July 2009, Witness 1 told IPRA Investigator C that he did not witness the shooting. (Att. 11, 12, 17)

The **Tactical Response Reports** from the involved officers indicate that Officer A discharged his weapon once and Officer B discharged his weapon twice. (Att. 5-8)

The **Detective Supplementary Report** indicated that Witness 1 related to detectives that he was standing on the front porch of 11XXX S. Yale Avenue making a phone call when he heard approximately 40-45 gun shots from at least two different guns being fired. Witness 1 stated that the gun shots appeared to be coming from the south and west of his location. Witness 1 observed a male black wearing a white t-shirt standing near the location of the shots and observed police officers arrive on the scene. Witness 1 pointed out the direction the offenders ran to and where the gun shots were coming from. After the officers arrived he heard another 2-

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3 shots. Witness 1 walked to the backyard with his friend, “[Two Initials]”, and told police that the offenders ran towards Harvard or Stewart Street.<sup>3</sup> “[Two Initials]” got belligerent with the officers and, as a result, they were both arrested.

The Detective Supplementary Report indicated that Witness 2 related to the detectives that he was outside on the sidewalk in front of 11XXX S. Yale Avenue with his girlfriend, [Name Withheld], when he heard approximately 20 gunshots coming from the alley of Princeton. Witness 2 stated that officers drove down Yale in an unmarked maroon colored police car and the officers exited their car and went westbound between the houses towards Princeton. Witness 2 heard the officers yell “Police!” and several other commands he could not clearly hear. Witness 2 heard an additional 3-4 gunshots then more officers arrived on the scene and told him to call 911. Witness 2 got on his cell phone to call 911 and walked to back yard from where the shooting happened to see who got shot. When he walked into the backyard he was arrested. (Att. 65-67)

**Office of Emergency Management Communications (OEMC) Event Queries** for the incident indicate numerous individuals called 911 stating they heard shots fired. Beat 42G71C called in shots fired by police and requested EMS to the scene. (Att. 28-42)

According to **Crime Scene Processing Reports** completed subsequent to the incident, Subject 1’s hands, Witness 2’s hands, and Witness 1’s hands were swabbed in order to determine the presence or absence of gun shot residue on their hands. Subject 1’s hands were swabbed while he was receiving treatment for a gun shot wound to the right forearm at Roseland Hospital. Witness 2’s hands and Witness 1’s hands were swabbed when they were at Area 2 Detective Headquarters. It should be noted that according to the crime scene processing report, Witness 1 admitted to urinating on his hands prior to being swabbed. (Att. 20, 25)

**Evidence Technician** photographs depict three recovered handguns, the scene of the incident and fired evidence recovered from 11611 S. Princeton. The photographs also depict Subject 1 in a hospital bed. Subject 1 has a large bandage around his right forearm. Evidence technician photographs of Witness 1 and Witness 2 depict no injuries. (Att. 21-24, 26, 27)

**Medical Records** from Subject 1’s treatment following the incident indicate that he was treated for a single through-and-through gunshot wound to the right forearm. (Att. 59, 60)

**Lab Reports** from the **Illinois State Police Forensic Science Center** indicate that Subject 1, Witness 1 and Witness 2 did not appear to have gunshot residue on their hands when they were tested.

**Lab Reports** also indicated that a testing of a Smith and Wesson magazine recovered from the scene indicated that human blood was present on the object. The Forensic Science Center did not test the blood further to determine to whom it belonged.

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<sup>3</sup> According to Witness 2’s Arrest Report, he has a tattoo of the letters “[Two Initials]” on his lower right arm. Witness 2 did not admit to having any aliases.

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**Lab Reports** also indicate that both officers' weapons were examined and found to be in working condition. Two fired casings were fired from Officer A's weapon. One fired bullet fragment was fired from Officer B's weapon. Six fired casings were fired from Subject 1's weapon. Twenty-two fired 9mm Luger casings were not from any of the recovered weapons and no identification could be made from the IBIS database. (Att. 56-58, 62)

**CONCLUSION AND FINDING:**

This investigation found that the use of deadly force by Officer B and 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 involved the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm;
  - 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 and Officer B's actions were in accordance with both conditions of CPD's deadly force policy. The officers heard multiple gunshots, possibly as many as 40-45, near the location of a street stop in a residential neighborhood. Neighborhood residents indicated the location of the shooters and the officers proceeded to that location to search for the offenders. The discharge of multiple rounds in a residential neighborhood clearly was "a forcible felony which involved the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm." Subject 1 and the unknown offender both fled from the officers.

In addition, based on the totality of the circumstances, it was reasonable that Officer A feared for his life after hearing many gunshots. Officer A also added that Subject 1 pointed a weapon at him, then fled and refused to comply with directions to drop his weapon. It is also reasonable that Officer B feared for his life and that of his partner after hearing his partner order the subjects to drop their weapons and then hearing an exchange of gunfire before he saw Subject 1 point a weapon at him and refuse to follow Officer B's order to stop and drop his weapon.