

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1036177/U # 10-18

INVESTIGATION

NUMBER: Log # 1036177/U# 10-18

OFFICER

INVOLVED: "Officer A" (Chicago Police Officer); Male/Black; 27 years old; Off Duty; Civilian Dress; Year of Appointment – 2006

VICTIM/

SUBJECT: "Subject 1"; Male/Black; 44 years

SUBJECT

INJURIES: (2) gunshot wounds to the upper right arm; (1) gunshot wound to right flank; (1) gunshot wound to the right side of lower back; and (1) gunshot wound to the left outer buttock. Fatal

INITIAL

INCIDENT: Shots Fired

DATE/TIME: 10 May 2010, 1840 hours

LOCATION: XXXX S. Champlain

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1036177/U # 10-18

SUMMARY OF INCIDENT:

On 10 May 2010, at approximately 1840 hours, Subject 1 attempted to enter a two-story residence located at XXXX S. Champlain. Chicago Police Officer A is the owner of the building. Subject 1 used a tire iron to pry off the metal scissor gates and plywood covering the rear entrance on the first floor. Officer A identified himself as a police officer and instructed Subject 1 to show his hands. Subject 1, who held a tire iron in his hands, threatened to kill Officer A and repeatedly swung the tire iron at Officer A. Officer A discharged his firearm five times, striking Subject 1 three times.

INVESTIGATION:

On 10 May 2010, at approximately 2352 hours, a **Roundtable Panel** was conducted at Area Two Police Headquarters. Officer A provided an account of the events.

Officer A related that he was inside the second floor apartment when he heard a noise on the first floor. Officer A walked down the front stairs to the first floor. As he continued down the stairs, Officer A heard noise from the rear of the residence. Officer A opened the rear entrance door and observed the subject, Subject 1 standing on the rear porch. Officer A stepped onto the rear porch, identified himself as a police officer and instructed Subject 1 to show his hands. Subject 1 replied, "I'll kill your fucking ass," and then swung a "crowbar"¹ at Officer A. Officer A drew his firearm as Subject 1 approached him while repeatedly swinging the crowbar at him. Officer A fired several more times. Subject 1 turned and fled to the far north end of the rear porch, jumped over the railing, landed on the ground, jumped the cast iron gate into the alley and fell to the ground. Officer A ran to the side of the rear porch adjacent to the alley, looked down and saw Subject 1 lying on the ground. A female neighbor came onto her porch and Officer A asked her to call the police. Officer A remained on the porch and guarded Subject 1 until responding units arrived.

CPD Detective 1, Unit 620 related that he interviewed the witness, Witness 1. Witness 1 reported that she was in a rear bedroom of her residence when she heard several gunshots and someone yell, "Freeze! Don't move!" Witness 1 called 911 and spoke with the operator; Witness 1 looked through a window and observed a black male subject with an Afro and wearing black pants while holding a gun on the rear porch of the building across the alley from her residence.

CPD Detective 2, related that he responded to Christ Hospital where he observed the body of Subject 1. Subject 1 sustained two gunshot wounds to the upper right arm, one gunshot wound to his right flank, one gunshot wound to the right side of his lower back, and one gunshot wound to the left outer buttock. Subject 1 was pronounced dead at 1926 hours.

In a digitally recorded interview taken on 11 May 2010, at 615 East 75th Street, the **Witness 1** related that which was reported to the Roundtable Panel. Witness 1 further related that as she spoke with the 911 operator she informed the operator that the man she observed with a gun was still holding and pointing the weapon at someone. Witness 1 hung up the phone, went to the back porch, and asked the young man, now known as

¹ Identified later as a "tire iron."

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1036177/U # 10-18

Officer A, "What was going on?" Officer A stated, "The motherfucker was trying to get in my building." Witness 1 went to rear gate and observed a man, now known as Subject 1, lying face down in the alley on the side of XXXX S Champlain.

A **Canvass** of the area produced no additional witnesses.

OEMC records reflect that on 10 May 2010, at 1842 hours, a female caller reported that she heard several gunshots. The caller provided a description of a black male, dark complexion, wearing black and white shirt and glasses holding a gun and pointing it at a person on the ground.

Multiple anonymous telephone calls were made to OEMC reporting four to five gunshots in the immediate area. The callers related seeing a black male lying in an alley in the vicinity of 613 W 75th Street and a second black male who was described as wearing a black and white shirt, black pants and glasses with an Afro² standing over him with a gun in his hand.

It was also documented that off-duty police Officer A discharged his weapon; the subject was shot multiple times and transported to Christ Hospital in critical condition. The subject was later identified as Subject 1, black male, 44YOA and classified as deceased.

Chicago Fire Department EMS Run Sheets reflect that upon the paramedics' arrival to the scene, they observed a black male, now known as Subject 1, face down in the alley with multiple gunshot wounds. Paramedics attempted CPR. Paramedics transported Subject 1 to Christ Hospital.

A **Crime Scene Processing Report** documented that Forensic Investigator 1 and Forensic Investigator 2, assigned to Unit 177, received the assignment at 1910 hours, on 10 May 2010, arrived at the location of incident at approximately 1945 hours, and completed the assignment at 11 May 2010, at 0520 hours.

Related **Evidence Technician photographs** taken on 10 May 2010 capture images of the scene of the incident, including the rear porch, alley and recovered evidence. Additional photographs of the deceased Subject 1 taken at Christ Hospital depict the bullet wounds and incidental abrasions to his hands and knees. Subject 1's body displayed five bullet wounds in the following locations:

- Lower back, near the spine on the right side
- Right flank³
- Left buttock, center
- Right arm, above elbow, outside
- Right arm, above elbow, underside

The Postmortem Examination of Subject 1, conducted by Doctor A, MD on 11 May 2010, documented that Subject 1 died from multiple gunshot wounds. Subject 1 sustained five gunshot wounds caused by three bullets.

² Hair style worn by African Americans

³ Side of the lower torso, between the lowest rib and the hip.

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1036177/U # 10-18

A gunshot wound to the back was caused by a bullet that entered to the right of Subject 1's spine in his mid-back. The bullet traveled left to right, front to back, and slightly upward, exiting from his right flank.

A gunshot wound to the buttock was caused by a bullet that entered Subject 1's left buttock and was recovered from where it was lodged in his right flank. The bullet traveled left to right, front to back, and upward.

A gunshot wound to the right arm was caused by a bullet that entered and exited Subject 1's arm above his elbow. The path of the bullet was left to right, and downward.

Subject 1 tested positive for cocaine and alcohol in his system at the time of his death.

Doctor A noted abrasions and contusions to the right shoulder, extremities and torso.

Medical Examiner photographs taken at the Medical Examiner's office depict the images of Subject 1 on 11 May 2010. The photographs also depict his clothing and bullets recovered from the body.

Illinois State Police (ISP) reports reflect that the tire iron recovered from the scene revealed no useable fingerprints for comparison.

The weapon recovered from Officer A, a Glock model 23, 40 Smith and Wesson semi-automatic, was found to be in good firing condition. Recovered bullet jackets and one fired bullet could not be identified or eliminated as having been fired from the weapon identified as belonging to Officer A.

Department Reports including the Supplementary Case Report reflect that Officer A related in an interview with CPD Detective 3, that on 10 May 2010, at approximately 1840 hours, Officer A was on the second floor of the residence when he heard what sounded like someone tearing off the rear door of the first floor residence. Officer A went to investigate the noise. Officer A walked to the first floor and then to the rear door. As Officer A approached the rear door, he could still hear someone attempting to gain entry.

Officer A opened the rear door and observed a black male, now know identified as Subject 1, standing with a tire iron in his right hand. Officer A identified himself as a police officer and advised Subject 1 that he was under arrest. Officer A approached Subject 1, who stated, "I will fucking kill your ass!" Subject 1 raised the tire iron above his head and began to violently swing the tire iron at Officer A.

Officer A stated that because he feared for his life he drew his weapon from his holster and immediately fired four to five shots at Subject 1, who continued to attempt to strike him with tire iron. Officer A related that he dodged and ducked to keep from being struck by Subject 1 as he fired his weapon. Subject 1 dropped the tire iron and subsequently jumped over the north railing and fence into the alley where he collapsed. Officer A ran to the railing and looked down into the alley. A female neighbor, now know as Witness 1 from across the alley, asked if he was okay. Officer A asked Witness 1 to call the police while he kept an eye on Subject 1. Officers arrived a short time later.

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1036177/U # 10-18

In an interview with Chicago Police CPD Detective 3, Witness 1 related that she was in her bedroom when she heard four to five gunshots in rapid order being fired from behind her residence. Witness 1 secured her children and then went to the bedroom window. Witness 1 observed a black male, now known as Officer A, standing near a railing with a gun in his hand. Officer A yelled, "Freeze, don't move!" Witness 1 went to the rear door and asked Officer A, "What was going on?" Officer A told Witness 1 to call the police. Witness 1 contacted 911.

Department reports reflect that officers responded to a call of a person shot in the alley at XXXX S. Champlain Ave. The officers observed the subject, Subject 1 laying face down in the alley with multiple gunshot wounds about the body. The officer observed off-duty, Officer A standing on his porch. The officers approached Officer A, who identified himself.

Officer A related to the officers that he was in his residence on the second floor when he heard someone breaking into his residence through the first floor. Officer A went to check the rear door at which time he observed Subject 1 with a steel tire iron attempting to break into the residence. Officer A announced his office and told Subject 1 that he was under arrest. Subject 1 stated, "I will fuckin kill your ass!" Simultaneously, Subject 1 lunged toward Officer A swinging a steel tire iron. Officer A, in fear for life, discharged his weapon striking Subject 1 multiple times about the body.

Forensic Investigators recovered the tire iron associated with Subject 1 from the first floor rear porch near the doorway of XXXX S. Champlain Ave.

Inventory reports depict that officers identified and recovered a Glock model 23, .40 Caliber semi-automatic weapon, a thirteen (13) round magazine, one (1) round from the chamber of the weapon, and eight (8) Winchester 40 Smith and Wesson rounds from the magazine.

Forensic Investigator also identified and recovered one (1) black metal folding security gate approx. 79 inches in the length. Four (4) metal fragments from the alley pavement and one (1) metal tire iron approx. 19 inches in the length recovered from the 1st floor rear porch at XXXX S. Champlain.

Tactical Response Report submitted by Officer A documented that assailant Subject 1 was armed with a crowbar. Officer A gave Subject 1 verbal commands, but Subject 1 failed to comply. Subject 1 raised the crowbar over his head, swung the crowbar at Officer A and threatened Officer A, by stating, "[I'll] kill your fucking ass!" Officer A used force likely to cause death or great bodily harm. Officer A fired his weapon five times.

In an interview at the Independent Police Review Authority (IPRA) on 25 May 2010, **Officer A** related that on the date of the incident he was working on the second floor of the building at XXXX S. Champlain. While in the building, Officer A heard what he described as a "banging" noise on the first floor. Not being able to ascertain the location of the noise, Officer A walked to the first floor to investigate.

Officer A related that he did not call 911 because he was not sure what the banging noise was and wanted to investigate. Officer A went down the front stairs to the first floor. As he approached the first floor, Officer A again heard the noise coming from

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1036177/U # 10-18

an apartment on the first floor. Officer A realized that someone had pulled the scissor gate off the back door and threw it on the side of the porch. Officer A ran to the back and opened a door leading to the rear porch. When he opened the door, Officer A saw Subject 1 facing him, standing approximately five feet from the door holding a tire iron in his right hand. Officer A thought that once Subject 1 saw him, he would leave the property.

Officer A ordered Subject 1 off his property. Subject 1, holding the tire iron and swinging it using overhead swings aimed toward Officer A's head, approached Officer A and yelled, "I will kill your fucking ass!" Officer A drew his weapon from his side, announced his office and again ordered Subject 1 off the property. Officer A stood on the landing with his back to the corner of the landing. Subject 1 approached Officer A with great speed and swung the tire iron at him in upward and downward motions. Officer A, in fear for his life, took several steps back, with no cover available and no place to escape the attack, raised his weapon out of the holster at his hip, and continued moving backwards as Subject 1 continued to move toward him swinging the tire iron. Officer A was unable to raise his weapon to utilize his sights and fired four to five rounds from his hip. As Subject 1 swung the tire iron in a downward motion, Officer A discharged his weapon. Subject 1's shoulders were in a downward slant and his frontal body was twisted away from Officer A. Subject 1 dropped the tire iron, turned and ran north along the porch then jumped over the railing and fell to the ground in the alley. Officer A ran to the railing, but remained on the rear porch at the railing and held Subject 1 at gunpoint, and waited for on duty officers to arrive. Subject 1 was lying on his stomach and stated, "This shit hurts." A neighbor, now known as Witness 1, came out onto her rear porch, located across the alley from Officer A. Officer A asked Witness 1 to call the police.

Officers arrived on the scene, including Officer B, who approached Officer A and instructed him to drop his weapon. Officer B handcuffed Officer A. Officer A then identified himself as a Chicago Police Officer.

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1036177/U # 10-18

CONCLUSION and FINDING:

This investigation found that the use of deadly force by Officer A was in compliance with Department policy.

According to the Chicago Police Department's General Order No. 02-08-03 III:

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 believes that the person 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 actions complied with the requirements of the Department's deadly force policy. Officer A, reported to the Roundtable Panel and in his interview with IPRA that while in his residence, he heard a loud unfamiliar noise and went to investigate. Officer A went to the first floor of the residence and observed Subject 1 on his property. Officer A identified himself as a police officer and ordered Subject 1 off the property. When given verbal commands to leave the property, Subject 1, according to Officer A, refused to leave the property, made verbal threats, and attacked Officer A with a tire iron.

Officer A reported that Subject 1, while holding a tire iron in his hands, began to swing the tire iron toward him. Subject 1 began to advance toward Officer A as he swung the tire iron. Officer A dodged and ducked to keep from being struck. Officer A with no cover and no room to retreat removed his weapon from his side and fired striking Subject 1 with entry wounds from the back and exit wounds to the side. Subject 1 dropped the tire iron, turned, ran to the railing on the porch and jumped, landed on his feet and then fell to the ground.

Subject 1 attempted to commit a forcible felony, a burglary with a weapon, and threatened Officer A with great bodily harm, in that he attempted to strike Officer A with a tire iron. Officer A, due to the actions of Subject 1, reasonably believed that he was in danger or great bodily harm. Officer A fired to prevent death or great bodily harm to himself.