

Independent Police Review Authority
Log#1037789 / U# 10-24

INVESTIGATION

NUMBER: Log #1037789/U# 10-24

OFFICER

INVOLVED#1: “Officer A” (Chicago Police Officer); Male/White; 41 years old;
On-Duty; In Uniform; Year of Appointment – 2003

OFFICER #1’S

INJURIES: None reported

SUBJECT: “Subject 1”; Male/Black; 26 years old

SUBJECT’S

INJURIES: One (1) gunshot wound to the left chest, lodged in the right
ribcage, collapsed lung. Treated at Mount Sinai Hospital.

INITIAL

INCIDENT: Burglary

DATE/TIME

OF INCIDENT: 05 July 2010, at approximately 0214 hours

LOCATION: 128 N. Leamington Avenue
Beat 1532

SUMMARY OF INCIDENT:

On 05 July 2010, at approximately 0214 hours, Beat 1533R, Officer B and Officer C, responded to a noise disturbance on the corner of Washington and Leclaire. Upon arrival, the officers attempted to disperse a large crowd that was in the area but a large fight broke out. As Officer B attempted to break up the fight, Officer B heard gunshots and observed muzzle flashes coming from an object in a black male subject's, now known as Subject 1, hands. After the third shot, Subject 1 dropped the object to the ground but then picked the object back up. Officer B observed that the object Subject 1 picked up was a large black handgun. Subject 1 fled the area. Officer B pursued Subject 1 and called for assistance.

Officers A, D and E arrived on the scene and pursued Subject 1. Officer A pursued Subject 1 through a vacant lot located at 128 North Leamington Avenue. As Subject 1 attempted to scale a cyclone fence, Subject 1 pulled a large black handgun from his waistband and pointed the handgun in the direction of Officer A. Officer A, in fear of his life, fired one shot at Subject 1 striking him in the upper left shoulder. Subject 1 dropped the handgun to the ground and continued to flee. Officer A continued to pursue Subject 1. Shortly afterwards, Subject 1 stopped running. Subject 1 got down on the ground at 140 North Leamington Avenue and was placed into custody. Subsequently, Subject 1 was transported to Mount Sinai Hospital via ambulance.

INVESTIGATION:

Detective Conley related to the Roundtable Panel that he responded to Mount Sinai Hospital. Subject 1 did not make a statement to Detective Conley as he was being prepped for surgery. Detective Conley stated that a 9mm expended cartridge case was located in Subject 1's pocket. A Gun Shot Residue (GSR) test was conducted on Subject 1 at Mount Sinai Hospital.

Officer B related to the Roundtable Panel an account that is consistent with the Summary of Incident. Officer B did not fire his weapon.

Officer E related to the Roundtable Panel an account that is consistent with the Summary of Incident. Officer E did not fire his weapon.

Officer D related to the Roundtable Panel an account that is consistent with the Summary of Incident. Officer D added that as Subject 1 attempted to jump the fence, he observed Subject 1 trying to reach for his gun. Officer D heard one gunshot but did not know, nor could he see, who fired the gunshot. Officer D then observed Subject 1 drop a black handgun to the ground. Subject 1 got over the fence and Officer A continued to pursue him. Officer D picked up Subject 1's weapon and continued the pursuit. Officer D then observed Subject 1 collapsed on the sidewalk. Officer D stated that he unloaded the weapon, which contained a fully loaded thirty (30) magazine capacity, and held onto the weapon until he was able to turn it over to the Chicago Police Department's (CPD) crime lab. Officer D did not fire his weapon.

Officer A related to the Roundtable Panel an account that is consistent with the Summary of Incident. Officer A added that as Subject 1 attempted to jump the fence he got stuck with only one leg over the fence. As Officer A approached Subject 1, he observed Subject 1 withdraw a handgun from his waistband so he (Officer A) withdrew his weapon. While Subject 1 was withdrawing his handgun from his waistband, the handgun pointed at Officer A. Officer A thought that Subject 1 was going to fire his weapon at him so he fired his weapon once at Subject 1.

Attempts to interview Subject 1 was unsuccessful. Subject 1 invoked his right to remain silent and decided not to discuss the incident with IPRA.

A canvass was conducted and produced two additional witnesses, Witness 1 and Witness 2.

In a statement with IPRA dated 05 July 2010, Witness 1 stated that during the incident she and her boyfriend, Witness 2, were sitting outside on Witness 2's porch, XXX North Leamington Avenue. While Witness 1 was sitting on the porch, she observed a black male subject¹ running on Washington Boulevard. The male subject continued to run northbound onto Leamington Avenue. Witness 1 recalled that she observed the male subject with a shotgun in his hand as he ran northbound on Leamington Avenue. As the male subject ran down Leamington Avenue, a marked squad car drove northbound down

¹ Now identified as Subject 1 through CPD Reports.

Leamington Avenue going in the wrong direction. Leamington Avenue is a one way street going southbound. The male subject then entered a gangway at 126 North Leamington Avenue and continued to run westbound out of Witness 1's sight. The passenger officer in the squad car got out and ran westbound into the gangway at 126 North Leamington Avenue. The squad car then continued northbound On Leamington Avenue and then turned westbound onto West End Avenue.

Approximately five to six minutes later, Witness 1 observed the male subject running eastbound towards her through a vacant lot between 126-130 North Leamington Avenue. At that time, Witness 1 observed three uniformed officers running behind the male subject. The male subject attempted to climb over a fence at which time a white male officer² shot the male subject in his back. According to Witness 1, the male subject did not have the shotgun on his person when the officer fired his weapon. The male subject continued to climb over the gate and ran north on Leamington Avenue. The male subject then collapsed on the corner of West End Avenue and Leamington Avenue on the west side of the street. Officers handcuffed the male subject and called for an ambulance.

Witness 1 stated that the officer was close to the male black subject when he fired his weapon but she could not give an approximate distance. However, Witness 1 recalled that the officer was more than three feet away. According to Witness 1, she was approximately fifty feet away when she witnessed the incident. Witness 1 stated that she does not know the male subject that was shot and has not seen him in the neighborhood before the incident.

Attempts to contact and interview Witness 2 via telephone calls and personal visits were met with negative results.

The Chicago Fire Department (CFD) EMS Incident Report indicates that on 05 July 2010, at 0222 hours, paramedics responded to the scene and observed Subject 1 lying on the sidewalk with a gunshot wound to the top of his left shoulder, midline, no exit. Subject 1 was agitated, hostile, and combative towards paramedics. Subject 1 was transported to Mount Sinai Hospital.

Medical Records from Mount Sinai Hospital indicates that 05 July 2010 Subject 1 was brought into the hospital with a gunshot wound. Subject 1 was discharged on 12 July 2010 and diagnosed with a gunshot wound to the left shoulder, left hemopneumothorax, and a left pulmonary contusion.

² Now identified as Officer A through CPD Reports.

The Crime Scene Processing Report listed that an A.A. Arms Inc., Model #AP9, 9mm, S/A Pistol, Serial #000446, was recovered from the front driver's seat of a white/blue CPD Chevy SUV and was inventoried under number 12062277. Additionally, a Smith & Wesson, 9 Tactical, 9mm, S/A Pistol, Serial #VJL2382, belonging to Officer A, was inventoried under number 12062315.

CPD Inventory Sheet Number 12062240 documented that a Win 9mm Luger spent shell casing was recovered from Subject 1's right front pants pocket (shorts).

Evidence Technician Photographs and Videotape depicts what appear to be the location of incident and the recovered evidence.

The related Department Reports, including the Arrest Report, Original Case Incident Report, and Case Supplementary Report, included an account of the incident that is consistent with the Summary of Incident. The Case Supplementary Report added that Subject 1 spoke to detectives briefly about the incident. Subject 1 reportedly told detectives that he was at a party at Washington and Leclaire with a friend named "[Male First Name]." Subject 1 admitted to detectives that he had smoked some "pot" but he did not drink any alcohol. Subject 1 left the party for a short time and then returned. When Subject 1 returned to the party, someone fired some shots and everyone started running, including Subject 1. As Subject 1 ran, he observed the police. Subject 1 stated that he never saw the police chasing him, never heard the police tell him to stop, and never fired any shots. Detectives asked Subject 1 why he did not run towards the protection of the police instead of running away from the police but Subject 1 could not provide an answer. Subject 1 was also unable to provide an answer as to how a fired cartridge case ended up in his pants pocket. Subject 1 was arrested and charged with Aggravated Assault/Officer/Fireman and Aggravated Assault – Discharge Firearm.

The Tactical Response Report (TRR) completed by Officer A indicates Subject 1 was an "assailant" who "did not follow verbal direction, fled, posed an imminent threat of battery, withdrew a firearm, attacked with a weapon, and used force likely to cause death or great bodily harm." Officer A used verbal commands and his firearm to subdue Subject 1. The TRR indicates that Officer A fired one shot from his weapon.

An Officer's Battery Report (OBR) indicates that Officer A did not sustain any apparent injuries.

A Report from the Illinois State Police (ISP), Division of Forensic Services, dated 30 August 2010, documented that a GSR evidence collection kit administered to Subject 1 was examined. The results indicated that Subject 1 may not have discharged a firearm with either hand. If Subject 1 did discharge a firearm, then the particles were removed by activity, were not deposited, or were not detected by procedure.

An ISP Report, dated 10 September 2010, documented that the weapon recovered on the scene, an A.A. Arms, Model AP9, 9mm Luger semiautomatic pistol, Serial Number 000446, was examined, found to be in firing condition, and test fired. A

Winchester 9mm Luger fired cartridge case³ was examined and determined that it was fired from the A.A. Arms semiautomatic pistol, Serial #000446, that was recovered on the scene.

Officer A's weapon, Smith & Wesson, 9mm Luger semiautomatic pistol, Serial #VJL2382, was examined, found to be in firing condition, and test fired. A Winchester 9mm Luger +P fired cartridge case⁴ was examined and determined that it was fired from the Smith & Wesson, 9mm Luger semiautomatic pistol, Serial #VJL2382, which belongs to Officer A.

An ISP Report, dated 21 September 2010, documented that a buccal standard from Subject 1 was preserved. The report also documented that a wet swab and a dry swab were taken from a gun⁵ which is listed under CPD inventory number 12062277.

An ISP Report, dated 30 November 2010, documented that no human DNA profile was identified on the wet swab or the dry swab taken from the gun.

In a statement with IPRA dated 14 July 2010, involved Officer A stated that on the date of the incident he was working Beat 1531R with Officer E. While on patrol, Officer A monitored zone twelve and heard a call come over the zone about a loud disturbance followed by a battery in progress. Officer A recalled that almost immediately following the battery in progress call, there was a report of shots fired and then a "10-1"⁶.

Upon arriving at the location, Officer A observed two male individuals fleeing on foot. Officer E stopped the marked squad car and parked the car on Washington Boulevard between north Laramie and north Leamington. Officer A and Officer E then ordered the two male individuals to stop running and approached them. Officer A and Officer E patted down both of the male individuals because they believed that they may have been involved in the shots fired. As Officer A was patting one of the male individuals down, Officer E yelled to Officer A, "There he is, that's the guy with the gun!" Officer A observed a subject, now known as Subject 1, with a striped shirt running furiously west on Washington Boulevard while holding his left side.

Officer A pursued Subject 1 on foot. As Officer A pursued Subject 1, Officer A announced his office and ordered Subject 1 to stop and drop the gun but Subject 1 did not comply. Officer A stated that he believed Subject 1 had a gun on him because he never once removed his left hand from his side and the way he was running quickly with his hand completely stretched out at his side, not balled up into a fist, as if he was holding his pants up. Officer A recalled that he never actually saw Subject 1 with a gun while he was running. Subject 1 continued to run and then slipped and fell as he ran into a vacant lot.

³ This was the fired cartridge case recovered from Subject 1's front pants pocket.

⁴ This was recovered on the sidewalk at 128 N. Leamington Avenue.

⁵ According to CPD Crime Scene Report inventory listing, the gun is an A.A. Arms Inc., Model #AP9, 9mm, S/A Pistol, Serial #000446.

⁶ Officer needs assistance.

Officer A continued to pursue Subject 1 and then observed him scaling a chain link fence. Subject 1 got caught on the fence and looked at Officer A. Officer A then withdrew his weapon as he neared Subject 1's location. According to Officer A, Subject 1 then pulled out a black handgun from his waistband and pointed the weapon in Officer A's direction. Officer A, in fear of his life, then discharged his weapon. Officer A was ten to fifteen feet away from Subject 1 when he fired his weapon. Subject 1 fell onto the sidewalk adjacent to the fence. Subject 1 then arose back to his feet and ran northbound on Leamington Avenue. Officer A stated that he did not know if he had shot Subject 1 when he fired his weapon.

Officer A waited a few moments, until Subject 1 was 20-30 feet from him, and carefully scaled the fence and began to pursue Subject 1 again. Officer A waited to pursue Subject 1 again because he did not know if Subject 1 was still armed and he thought that if he jumped the fence right away and began pursuing him, he (Subject 1) could have been waiting to shoot him. Officer A recalled that a large tree blocked his vision and he lost sight of Subject 1 when Subject 1 got up and ran.

According to Officer A, Subject 1 collapsed at 140 North Leamington on the sidewalk. When Officer A got to Subject 1, he patted him down for weapons and Subject 1 asked Officer A, "Why did you shoot me?" Officer A did not respond to the question. As Officer A patted down Subject 1, Officer A observed blood around Subject 1's neck and summoned for an ambulance. Officer A stated that he did not observe Subject 1 drop the weapon during the incident.

In a statement to IPRA on 13 July 2010, the involved member Officer E stated that he was working with Officer A when they received a 10-1 for a shots fired at the location of 128 N. Leamington. Officer E indicated that they were at the location of 332 N. Latrobe when they received the call, at which time they relocated to the said location. Officer E indicated that they receive additional information that there was a male/black armed with a weapon fleeing in the area of Leamington and Washington. The offender was described as wearing a striped shirt.

Officer E related that he Officer A eventually responded to the location of Washington and Laramie. Upon their arrival they observed two male/blacks fleeing in their direction. Officer E exited his vehicle, announced his office, drew his weapon in fear that the men were armed, and instructed them to get down on the ground. The male/blacks complied and got down on their knees, and raised both hands in the air. Officer A began to conduct a protective pat down on the two male/blacks, during which time Officer E heard over the radio that the actual offender was fleeing in their direction.

At this time, Officer E observed the subject matching the description running toward Officer A, who had his back turned to the subject. Officer E indicated that the subject, now know as Subject 1, was running in their general direction and he was holding his side. Officer E then stated to Officer A, "There he is, the guy with the gun!" Officer A gave chase and Officer E entered the police vehicle and followed them. Officer E related that at one point during the chase he observed Officer A and Subject 1

between a fence and Subject 1 attempted to get over the fence. Officer E then drove to a nearby alley to make sure Subject 1 could not escape. Officer E then heard gunshots and went on the radio and reported that heard gunshots.

Officer E ran toward the area where he heard the shots fired with the assumption that Subject 1 had shot Officer A. When he got to the area he observed that Subject 1 was lying on the ground and had been shot. Officer A immediately called for an ambulance. Officer E indicated that never fired his weapon or saw the shooting.

In a statement to IPRA on 15 July 2010, the involved member Officer B stated that on 05 July 2010, he was working with Officer C when they received a call of loud music at the location of Washington and LeClaire. When they arrived on the scene, they observed a large group people having a party in a vacant lot. During this time, they turned on their emergency equipment and to try and disperse the large crowd. A large fight broke out right in front of their vehicle. Officer B related that he and Officer C attempted to break up the fight, when he observed someone fire three shots from about fifteen feet away. Officer B saw three consecutive muzzle flashes. Officer B stated that the subject was a male/black wearing a striped shirt.

At this time, Officer B called in the shots fired and then began to pursue the subject on foot. During the foot chase, he observed Officer D in the vicinity of Washington and Leamington and he gave him a description of the subject that he was pursuing. Officer D took over the pursuit and Officer B lost of them. Seconds later Officer B heard a shot fired and he ran to the location and observed the subject he was originally chasing on the corner of Leamington and West End, just walking. The subject proceeded to lie down and Officer B handcuffed him. Officer B did not witness the shooting.

In a statement to IPRA on 16 July 2010, the involved member Officer D stated that on 05 July 2010 his partner was Officer F and they had received a call of large crowd, which turned into shots fired. Officer D indicated that they stopped at the location of Washington and Leamington because they heard someone say words in the effect of "He's going westbound on Washington or the shooter is going westbound on Washington." Officer D exited his vehicle to get a description of the shooter. During this time, one of the other officers began yelling to Officer D to stop the subject. Officer D initially did not know who to stop, until Officer B indicated that the subject had a stripe shirt.

Officer D then attempted to stop the subject, now known as Subject 1, by yelling, "Chicago Police, stop." Subject 1 took of running and Officer D pursued him on foot. Officer D related that Subject 1 fled in the direction of Washington and Laramie. During the pursuit, Officer D observed Officers A and E stopping a group of individuals. Officer D yelled out to the officers that Subject 1 had a gun and Officer A began to pursue him.

Officer D continued to run behind Officer A and Subject 1 when he observed Subject 1 attempt to get over a fence. According to Officer D, indicated that the fence

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did not have the metal bar over the top and he had his right leg over the fence and his left leg was still in the vacant lot and that's when he heard shots fired. Officer D was about twenty feet away and he observed Subject 1 drop the gun to the ground and he managed to make over the fence and he fell on the sidewalk. Subject 1 got up and continued running north on Leamington and Officer A continued to pursue him. Officer D then picked Subject 1's gun and unloaded the weapon to render its safety. Officer D then turned the gun over to the crime lab. Officer D never observed Officer A fire his weapon.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by 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 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 both conditions of CPD's deadly force policy. Officer A was alerted by Officer E that Subject 1 had a weapon. Subject 1 failed to comply with verbal commands to stop running and drop the gun. Witness 1 stated that she did not observe Subject 1 with a weapon when Officer A fired his weapon and that Subject 1 was shot in his back. However, medical records indicate that Subject 1 was shot in his shoulder. Further, a weapon was recovered on the scene and Witness 1 corroborated department reports by stating that she observed Subject 1 with a weapon prior to the shooting. Subject 1 refused to cooperate with IPRA to give his account of the incident. Therefore, based on the totality of the circumstances, Officer A was reasonably in fear of his life and fired at Subject 1 to prevent death or great bodily harm.