

**INDEPENDENT POLICE REVIEW AUTHORITY
LOG#1044135/U#11-13**

INVESTIGATION

NUMBER: LOG#1044135 / U#11-13

OFFICER

INVOLVED: "Officer A" (Chicago Police Officer); Male/White; 42 years old; On Duty; In Uniform; Year of Appointment – 2000

"Officer B" (Chicago Police Officer); Male/Hispanic; 30 years old; On Duty; In Uniform; Year of Appointment – 2002

OFFICER

INJURIES: None.

SUBJECT: "Subject 1"; Male/Black; 19 years old

SUBJECT'S

INJURIES: Non Fatal Entry/Exit wounds – One gunshot wound to the lateral posterior left thigh; one gunshot wound to the anterior lateral mid left thigh; one gunshot wound to the left groin; and one gunshot wound to the right buttock. Treated at Stroger Hospital.

DATE/TIME: 22 March 2011, Approximately 0030 hours.

LOCATION: 357 W. 59th Street (on the street).

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SUMMARY OF INCIDENT:

On 22 March 2011, at approximately 0030 hours, Officers A and B, Unit 007, assigned to Beat 713R, were on patrol and answering a call of "Shots Fired" in the area of 59th Street & Shields Avenue. Upon touring the area, Officers A and B observed two black/male subjects standing on the sidewalk, just west of Shields Avenue, at 59th Street. As Officers A and B drove up on the subjects, one of them, who was wearing a dark, hooded sweatshirt and jeans (now known as Subject 1), fled west on 59th Street. Officers A and B gave chase in their squad car, driving onto Stewart Avenue in an effort to cut off Subject 1. Officer A exited from the driver's seat and Officer B exited from the passenger's seat. Officer A was running ahead of Officer B while both pursued Subject 1. Subject 1 turned to run east. Officer A demanded to see Subject 1's hands. Subject 1 pulled a handgun from his waistband and pointed it at Officer A. Officer A fired once, striking Subject 1, causing him to fall to the ground. Officer B took a position of cover to the east of Subject 1. Subject 1 failed to comply with verbal commands to show his hands as he lay on the ground and attempted to pull the same weapon from his waist area. Officer B fired once at Subject 1, striking him. Subject 1 was taken into custody and transported to Stroger Hospital for medial treatment. Subject 1 sustained four entry/exit gunshot wounds, specifically to the lateral posterior left thigh; the lateral anterior left mid thigh; the left groin and the right buttock. Subject 1 was charged with two counts of Aggravated Assault to a Police Officer and one count of Aggravated Unlawful Use of a Weapon.

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INVESTIGATION:

During an audio recorded statement to the Independent Police Review Authority (IPRA), **the subject, Subject 1**, stated that on 22 March 2011, at approximately 0030 hours, he left a female friend's house, on 59th Street & Parnell Avenue, walked to a store in the area of 59th Street & Normal Avenue, and then walked westbound down 59th Street.¹ Subject 1 admitted he was alone and in possession of a 9mm semi-automatic firearm that he said he carried for protection.² Subject 1 said he concealed the firearm in a "little bitty pants pocket," behind the front of his belt buckle.

When Subject 1 reached the area of 59th Street & Stewart Avenue, he observed a marked squad car exiting an alley. Officers A and B (unknown to Subject 1 at the time) shined a spotlight on Subject 1 from inside the squad car. Subject 1 immediately fled westbound down 59th Street. The officers pursued Subject 1 in the squad car and blocked Subject 1's direction of flight. Subject 1 turned in the opposite direction and fled eastbound. Subject 1 heard approximately 2-4 shots fired behind him and then felt pain in his right buttock and rear left thigh. The pain caused Subject 1 to immediately fall to the ground. The firearm that Subject 1 was carrying in his waistband also fell to the ground. Subject 1 heard his cell phone ring and rolled onto his back.³ The driver officer approached Subject 1, stood over him while pointing a gun at him from approximately two feet away, and discharged the firearm, striking Subject 1 on the left side of his body, near his pelvis.⁴ The same officer radioed, "Shots fired." Subject 1 was taken into custody and transported to Stroger Hospital for medical treatment. Subject 1 stated that he sustained nerve damage to his left leg as a result of being shot by the police. Subject 1 denied ever reaching for or pointing the firearm he was carrying at the police. Subject 1 never heard any shots fired prior to coming in contact with the police and never heard any verbal commands from the police.

The **Chicago Fire Department (CFD) Ambulance report** documents that Subject 1's pants were heavily soaked with blood and that Subject 1 complained of a gunshot wound to his upper left thigh. CFD paramedics noted a gunshot wound to Subject 1's left side, in the area of his pelvis, and transported him to Stroger Hospital for medial treatment.

The **medical records from Stroger Hospital** document that on 22 March 2011, Subject 1 was escorted into the triage by the police after being involved in a police shooting. Medical examination revealed that Subject 1 sustained four

¹ Subject 1 could not recall the identity of the female friend he was visiting immediately prior to his contact with the police.

² Subject 1 was wearing jeans, a blue and black hoodie, a "White Sox" baseball cap and Nike gym shoes.

³ Subject 1 did not recall how his body was positioned immediately after he fell to the ground.

⁴ Subject 1 stated that the driver officer stood over him and fired upon him. The investigation revealed that it was the passenger officer, namely Officer B, to whom Subject 1 was referring.

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entry/exit gunshot wounds – one to the anterior upper thigh; one to the medial right buttock and two to the left post upper thigh.

Evidence Technician photos and the Crime Scene Video, taken on 22 March 2011, depict the scene and the surrounding area; Subject 1; the firearm that Subject 1 was carrying; and Subject 1's clothing and money.

A **canvass** for witnesses was unsuccessful.

The **Arrest, Case and Supplementary reports, CB#18102270, RD#HT-214092**, contain information that is consistent with the Summary of Incident.

The **Tactical Response Report (TRR) and the Officer's Battery Report of Officer A** document that Subject 1 did not follow verbal direction, fled, posed an imminent threat of battery, attacked with a weapon and used a loaded 9mm semi automatic handgun as deadly force. Officer A responded with his presence, verbal commands and discharging his firearm, once, at Subject 1. Officer A did not sustain any injuries. CPD Lieutenant 1 concluded that Officer A's actions were in compliance with Department policy.

The **Tactical Response Report (TRR) and the Officer's Battery Report of Officer B** document that Subject 1 did not follow verbal direction, posed an imminent threat of battery, attacked with a weapon and used a loaded 9mm semi automatic handgun as deadly force. Officer B responded with his presence, verbal commands and discharging his firearm, once, at Subject 1. Officer B did not sustain any injuries. CPD Lieutenant 1 concluded that Officer B's actions were in compliance with Department policy.

The **Chicago Police Department Event Query and the Disc of transmissions from the Office of Emergency Management and Communications (OEMC)** contain information that is consistent with the Summary of Incident.

The **Illinois State Police Crime Lab reports** document that the firearms used by Officers A and B and Subject 1 were examined, found to be in firing condition, and test fired. The results of a Gunshot Residue (GSR) test conducted on Subject 1 documents that Subject 1 discharged a firearm, contacted a Post Gunshot Residue related item or had his right hand in the environment of a discharged firearm.

The **Synoptic report** of CPD Sergeant 1, contains information that is consistent with the Summary of Incident. The report additionally documents that CPD Sergeant 1 began the 20 minute observation period of each officer at 0416 hours and 0419 hours, respectively. Officers A and B

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were presented with the “Notice of Alcohol and Drug Testing Following a Firearm Discharge Incident” form. The Breath Tests were conducted at 0439 hours and 0444 hours, respectively. The Blood Alcohol Content (BAC) was .000 for both officers. Urine specimens of Officer A and Sierra were collected at 0450 hours and 0505 hours, respectively. The test results were negative for illegal drugs for both officers.

In a statement to the IPRA, the involved officer, Officer A, provided an account that was consistent with the Summary of Incident. Officer A stated that his and Officer B’s initial observation of Subject 1 and the other unknown subject was as the two were walking eastbound, on 59th Street, on the sidewalk, between Princeton Avenue and Stewart Avenue. They drove upon the subjects to ask them if they had heard any shots fired. Subject 1 aroused their suspicion because he turned and walked away, westbound, on 59th Street. Officer A yelled for Subject 1 to stop. Instead of complying, Subject 1 began running, with his right hand positioned inside his waistband, as though he were grasping an object. Officer B radioed, “Man with a gun is running westbound on 59th Street.”⁵

Subject 1 made “a quick left” [turn] and fled in a southeasterly direction on 59th Street. Officers A and B attempted to block Subject 1’s direction of flight with their squad car, but Subject 1 redirected and fled eastbound on 59th Street, on the sidewalk, toward a viaduct. Officers A and B exited their squad car and gave chase on foot as they simultaneously instructed Subject 1 to stop. Officer A was approximately eight to ten feet away from Subject 1 when Subject 1 removed a gun from his waistband and pointed it at Officer A.⁶ In fear for his life, Officer A unholstered his weapon and fired once at Subject 1. Subject 1 fell to the ground. Officer A simultaneously heard a single “loud pop.” Presuming the “loud pop” was from a different firearm, and fearing that the second subject “may re-emerge and ambush” him and Officer B, Officer A ran past Subject 1 as he lay on the ground.

Officer A had run approximately six feet beyond Subject 1 when he heard another shot, looked back, observed that Officer B had Subject 1 at gunpoint and heard Officer B repeatedly state to Subject 1, “Let me see your hands.” Officer A did not observe an object in Subject 1’s hands or near Subject 1’s person at the time he ran beyond him. He also did not observe Officer B fire upon Subject 1. When Officer A re-approached the area, he observed a loaded magazine, on the sidewalk, near Subject 1’s body, and a black, semi-automatic handgun and approximately two bullets, nearby, on the street. Officer A stated that neither he nor Officer B were injured during the incident.

In a statement to the IPRA, the involved officer, Officer B, provided an account that was consistent with the Summary of Incident. Officer B stated that

⁵ Officer A stated that he did not actually see Subject 1 with a gun at that time.

⁶ At the time, Officer A was closer to Subject 1. Officer A described the lighting as “good artificial lighting.”

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prior to encountering Subject 1 and the second unknown subject, he and Officer A encountered an unknown elderly black/male and asked him if he had heard the shots. The elderly male stated that he did hear shots fired and informed the officers that the shots had come from the west side of Princeton Avenue. Officers A and B toured the area and observed Subject 1 and the second unknown subject standing on the street, near 59th Street & Princeton Avenue, just west of a viaduct. Officers A and B drove up to the area where Subject 1 and the other unknown subject were standing to conduct a street stop. As soon as Officers A and B opened the doors of the squad car to exit, Subject 1 looked in their direction and fled westbound on 59th Street, toward the viaduct.

Officers A and B pursued Subject 1 in their squad car and observed that Subject 1 was holding an object, which they presumed was a gun, inside his waistband. Officer B radioed that he and Officer A were in pursuit of a black/male subject who was in possession of a gun. Officer A blocked Subject 1's direction of flight with the squad car. Subject 1 momentarily stopped running and then fled back in the direction that he initially fled. Officers A and B exited the squad car and pursued Subject 1 on foot. Officer B was unable to see Subject 1's actions, during the foot chase, because his view was blocked by Officer A, who was running directly in front of him.

Officer B heard a single gunshot and then observed Subject 1 fall to the sidewalk, on the south side of the street, underneath the mouth of the viaduct. As Officer B approached the area, with his gun drawn, he observed Officer A standing near Subject 1. As he got closer to the area, Officer B observed Officer A walk toward the street to secure the area. Upon reaching the area where Subject 1 was laying, Officer B observed Subject 1 in a "curled position", moving back and forth with his hands, which were underneath his body. Officer B observed what he believed to be the butt of a black gun in Subject 1's hands. While standing approximately five to ten feet away, Officer B pointed his gun at Subject 1 and repeatedly instructed Subject 1 to show his hands. When Subject 1 failed to comply, Officer B, in fear for his life, discharged his weapon, once, in the direction of Subject 1, striking Subject 1. Immediately thereafter, Subject 1 extended his arms in the air and Officer B observed a black magazine underneath Subject 1's person.⁷ Subject 1 was taken into custody. A black, semi-automatic handgun was recovered from the street, approximately seven feet from where Subject 1 was laying on the sidewalk. Medical personnel responded and transported Subject 1 to the hospital.

⁷ After Subject 1 was taken into custody, Officer B realized that the magazine underneath Subject 1's body was loaded.

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CONCLUSION AND FINDING:

This investigation found that the use of deadly force by the involved officer was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order 02-08-03, Section 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.

The actions of Officers A and B were in accordance with the Chicago Police Department's deadly force policy. Officers A and B were responding to an OEMC assignment of shots fired in the area of 59th Street & Princeton Avenue. They observed Subject 1 and a second unknown subject in the area. When they approached the subjects for an interview, Subject 1 fled while holding his waistband. Officers A and B initially pursued Subject 1 in their squad car and cut off his direction of flight. When Subject 1 momentarily stopped and doubled back to the area from where he had run, Officers A and B exited their squad car and pursued Subject 1 on foot. Officer A was running directly behind Subject 1. Officer B was running directly behind Officer A. Subject 1 pointed a gun at Officer A and, in fear for his life, Officer A fired his weapon, once, striking Subject 1. Officer B observed a black object, which he believed to be a gun, in Subject 1's hands, as Subject 1 lay on the ground after being shot by Officer A. During that time, Subject 1's body was in a "curled position" and Subject 1 was moving back and forth, with his hands underneath his body. Subject 1 refused to comply with Officer B's repeated instructions to show his hands. Officer B, in fear for his life, fired his weapon once, striking Subject 1. Though Subject 1 denied ever pointing a gun at either officer, Subject 1 admitted ownership of the gun that was found at the scene. Subject 1 described the gun as a 9mm semi automatic and stated that he concealed it in a "little bitty pants pocket," behind

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the front of his belt buckle. Officers A and B were both in reasonable fear for their lives or great bodily harm immediately before they discharged their weapons in the direction of Subject 1. Based upon the totality of the circumstances surrounding the police involved shooting of Subject 1, Officers A and B were justified in using deadly force.

It should be noted that on 15 June 2012, the R/I completed the investigation of this police involved shooting. On 23 October 2012, the case was returned to the R/I by her then supervisor, IPRA Investigator A, with instructions to make Officer B an accused. The allegation given to Officer B was as follows:

“It is alleged that on 22 March 2011, at approximately 0030 hours, at 357 W. 59th Street, on the street, the accused, Officer B/166, violated Department policy regarding the use of deadly force in that he shot the subject, Subject 1, without justification.” The allegation is **Unfounded**.