

INDEPENDENT POLICE REVIEW AUTHORITY

LOG# 1045473/U# 11-22

**INVESTIGATION**

**NUMBER:** LOG# 1045473, U# 11-22

**OFFICER**

**INVOLVED#1:** “Officer A” (Chicago Police Officer); Male/White; 26 years old; On-Duty; In Uniform; Year of Appointment – 2007

**OFFICER**

**INVOLVED #2:** “Officer B” (Chicago Police Officer); Male/White; 26 years old; On-Duty; In Uniform; Year of Appointment – 2007

**OFFICER #1**

**INJURIES:** None reported.

**OFFICER #2**

**INJURIES:** None reported.

**SUBJECT:** “Subject 1”; Male/Black; 19 years old

**SUBJECT INJURIES:** Gunshot wounds to lower limbs and buttocks.

**INITIAL INCIDENT:** Officers responding to a 911 call of a man with a gun.

**DATE/TIME OF INCIDENT:** 17 MAY 2011 at 0058 hours.

**LOCATION:** 6221 S. Peoria Drive

**BEAT:** 712

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**SUMMARY OF INCIDENT:**

Officer A and Officer B responded to a 911 call of a man (Subject 1) with a gun at a Mobile gas station at 6659 S. Halsted. Upon arriving at the gas station, Jason Waugh (Security Guard/911 caller) informed responding units of an incident with Subject 1. Subject 1 had left the gas station before responding units arrived at the scene. Witness 2 gave responding units a description of Subject 1, the vehicle Subject 1 was in (black 2001 Chrysler), and a description of the female (Witness 1) with Subject 1. Thereafter, Officer A and Officer B toured the area in search of Subject 1. Officer A and Officer B observed a vehicle matching the description of the black Chrysler. Officer B activated the emergency lights of the marked squad car. The Chrysler slowed down, but did not come to a complete stop. As Officer B and Officer A followed behind the Chrysler, they observed the front passenger door on the Chrysler open.

Subject 1 exited the Chrysler and fled. Subject 1 was holding a gun in his right hand. Officer A exited the squad car and pursued Subject 1. Officer A drew his weapon, announced his office, and gave verbal commands to Subject 1 to drop the gun. Officer B followed the foot pursuit in the squad car. As Subject 1 was fleeing, he turned his head and arm to the right side and pointed his gun in the direction of Officer A. Officer A discharged one round toward Subject 1; and Subject 1 fell to the ground. Officer A did not have a visual to ascertain if Subject 1 was still in possession of the gun. Officer B saw that Subject 1 was still in possession of the gun. Officer B exited the squad car and discharged two rounds toward Subject 1. Subject 1 dropped the gun from his hand. Officer B approached Subject 1 and placed him in custody.

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An attempt to obtain a **statement** from **Subject 1** was unsuccessful. Subject 1, who is incarcerated, invoked his 5<sup>th</sup> Amendment right to remain silent. However, CPD Detective 1, was able to interview Subject 1 at Stroger Hospital. Subject 1 related that he was upset over an argument he had with his girlfriend, after which he went to the Mobile gas station with Witness 1. Subject 1 stated that he did not attempt to rob the gas station. Subject 1 stated that Witness 1 was driving and that officers approached them from behind. Witness 1 attempted to stop the vehicle, but Subject 1 told her not to stop because he did not want to go back to jail. Subject 1 stated that he had a gun in his left hand. Subject 1 stated that the gun accidentally discharged, striking him in the right leg. Subject 1 jumped from the vehicle with the gun in his hand, and officers shot him. Subject 1 denied pointing the gun in the direction of the officers. Subject 1 abruptly terminated the interview and requested counsel.

**Witness 1** refused to provide a statement to IPRA. However, Witness 1 was interviewed by CPD Detective 2. In her interview, Witness 1 related that she was driving and that Subject 1 was a passenger in the vehicle. Witness 1 and Subject 1 returned to the Mobile gas station to look for some court papers that Subject 1 had misplaced. Shortly thereafter, she was driving west on 63<sup>rd</sup> street near Halsted, when she observed the police emergency lights behind her. Witness 1 attempted to curb her vehicle, but Subject 1 shouted to her, "You're not pulling this motherfucking car over, I have a gun." Subject 1 grabbed the steering wheel of the vehicle and applied his left foot on the gas pedal. Witness 1 struggled with Subject 1 to steer the vehicle. Witness 1 stated that Subject 1 pulled out a gun and she heard a gunshot; Subject 1 stated that he had shot himself. Subject 1 jumped from the vehicle. Witness 1 stopped the vehicle and surrendered to the police. Witness 1 stated that she did not observe anything further of Subject 1 after he exited her vehicle.

In his **statement** to IPRA on 17 MAY 2011, **Witness 2** related that Subject 1 came into the gas station to make a purchase. Witness 2 related that Subject 1 was hostile toward him and store employees. Subject 1 referred to Witness 2 as "punk ass security." Subject 1 then raised his jacket to display a handgun that he had in his right pants pocket. Witness 2 went to the back of the store and called 911. Responding units arrived at the gas station moments after Subject 1 had left. Witness 2 informed the officers that Subject 1 had left in a black Chrysler vehicle being driven by a black female (Witness 1).

Subject 1's **Arrest Report** relates that Subject 1 was charged with two counts of Attempted Murder. Officer B and Officer A are the listed victims. The narrative relates that while responding to a person with a gun call, Beats 735R and 706DR observed a vehicle at 6300 S. Halsted. Officers attempted to curb the vehicle driven by Witness 1 when Witness 1 struck beat 735R's squad car on the passenger side. Subject 1 exited from the passenger side of the vehicle with a gun in his hand. Beat 735R announced their office and gave verbal commands for Subject 1 to stop and put the gun down. Subject 1 turned towards Officer A and Officer B with the gun in his hand.

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Fearing for their lives, Officer A and Officer B fired shots that struck Subject 1. Subject 1 was placed in custody and advised of his Miranda rights. A blue steel .40 caliber High-Point handgun was recovered from Subject 1.

The **Case Incident Report** essentially relates the same information as the Arrest Report.

**Officer A's Tactical Response Report** categorizes the actions of Subject 1 as an Assailant/Deadly Force. Subject 1 did not follow verbal direction, fled, was of imminent threat of battery, used force likely to cause death or great bodily harm, and had a weapon. Officer A's response actions were member presence, verbal commands, and firearm. Officer A discharged one shot during this encounter, and related that he discharged his weapon before Subject 1 discharged his weapon at him. Officer A was over 15ft. away from Subject 1 when he discharged his weapon.

**Officer A's Officer's Battery Report** relates that he did not sustain any injury.

**Officer B's Tactical Response Report** essentially relates the same information as Officer A's Tactical Response Report. In addition, Officer B fired two shots during this encounter; and was 5-10ft. away from Subject 1 when he discharged his weapon.

**Officer B's Officer's Battery Report** relates that he did not sustain any injury.

The **Case Supplementary Report** essentially relates information previously mentioned in this summary. In addition, Per CPD Detective 1, Subject 1 sustained several gunshot wounds to his lower body and was in stable condition.

A **Canvass** was unsuccessful in locating any witnesses. The location of incident was a vast area of vacant lots.

The **Chicago Fire Department EMS Incident Report** relates that ambulance 36 arrived to the location of incident at 0104 hours. Paramedics observed Subject 1 laying facedown on the ground handcuffed. Subject 1 stated that he had been shot. Paramedics observed a gunshot wound to Subject 1's left hip area and right leg. Paramedics related that Subject 1 was uncooperative during the transport to Stroger Hospital.

Subject 1's **medical records** from Stroger Hospital related that Subject 1 sustained multiple gunshot wounds to his lower extremities. Four bullet wounds to his left hip and gluteus, bullet wounds to right medial thigh, right medial knee, right lateral knee, right posterior thigh, and right gluteus.

The **Crime Scene Processing Report** indicates that a Hi-Point, model #JCP 40 S+W, black finish, 4 inch barrel was recovered from the crime scene and inventoried under #12316753. Officer A's weapon, a Glock, Model 30 .45 caliber automatic handgun, was inventoried at Area 1 headquarters under inventory #12316760. Officer

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B's weapon, a Sig Sauer, Model 220ST, .45 caliber, stainless finish, was inventoried at Area 1 headquarters under inventory #12316762.

The **Illinois State Police Division of Forensic Services Laboratory Report** dated 16 JUNE 2011, indicates that Officer B's and Officer A's weapons were examined, test fired, and found to be in firing condition.

**Evidence Technician Photographs** and **Videotape** show the location of the crime scene, photographs of the involved vehicles, interior photographs of the Chrysler, photographs of Subject 1 at the hospital, Subject 1's clothing, and the recovered weapon.

There was no **In-Car Camera** video available from Beat 706DR.

In his **statement** to IPRA on 17 MAY 2011, **Officer B** related that he and his partner, Officer A, monitored a call of a man with a gun that came across the radio. They responded to the location of incident at 6700 S. Halsted. Upon arriving at the location, they learned that Subject 1 was not there, so they obtained a description of Subject 1, Witness 1 and the vehicle. As they toured the immediate area, they observed a vehicle matching the description in the vicinity of 63<sup>rd</sup> and Emerald.

Officer B, who was driving, activated the emergency lights, made a u-turn and fell in behind the Chrysler. The Chrysler slowed down and it appeared that the vehicle was going to stop. However, the Chrysler continued moving at a normal rate of speed. Officer B continued to follow behind the Chrysler. Subject 1 opened the front passenger door of the vehicle and then closed it. The Chrysler began to slow down again and pulled toward the curb. Beat 706DR (**Officer C and Officer D**) arrived on scene and assisted in attempting to curb the Chrysler.

Subject 1 exited the Chrysler and fled; at which time Officer A exited the squad car to pursue Subject 1. As Officer B followed the foot pursuit in the squad car, he observed Subject 1 to have a gun in his hand. After a short foot pursuit, Officer B heard Officer A state words to the effect of "Police." Subject 1 turned his head and upper body in the direction of Officer A as he held the gun in his hand. Shortly thereafter, Officer B heard a gunshot and saw Subject 1 fall to the ground.

From the squad car, Officer B observed Subject 1 still holding the gun in his hand as he lay on the ground. Subject 1 turned in the direction of Officer A and Officer B. Officer B slammed on the brakes of the squad car, exited the squad car, drew his gun, and discharged two rounds in the direction of Subject 1. The gun fell from Subject 1's hand. Officer B entered his squad car and placed the vehicle in park. Officer B exited the squad car and observed Officer C kick the gun out of Subject 1's reach. Officer B approached Subject 1 and placed him in custody.

Officer B related that he discharged his weapon in a decent shooting stance, but that he did not use his sights. Officer B stated that he experienced tunnel vision and that he was only focused on Subject 1. Officer B stated that he knew Officer A was to his

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right side when he discharged his weapon. Officer B stated that he did not believe that he had enough time to place the squad car in park before exiting and discharging his weapon toward Subject 1.

In his **statement** to IPRA on 17 MAY 2011, **Officer A** essentially related the same account of the incident as Officer B. In addition, Officer A related that he discharged his weapon after Subject 1 turned his head over his right shoulder and pointed the gun toward him. Prior to discharging his weapon, Officer A yelled to Subject 1, "Police, police." Officer A stated that he discharged his weapon because he was in fear of his safety. After discharging his weapon, Officer A observed Subject 1 fall to the ground. From his point of view, Officer A was not sure if Subject 1 was still in possession of the gun. As Officer A approached Subject 1 he heard two gunshots and realized Officer B had discharged his weapon. Officer B placed Subject 1 into custody as Officer A radioed for an ambulance. Officer A stated that the first time he saw Officer B after exiting the squad car was when he observed Officer B handcuffing Subject 1.

In his **statement** to IPRA on 17 MAY 2011, **Officer C** related that he was working in a marked SUV in full uniform with his partner Officer D. Officer C related that they had monitored an OEMC call of a person with a gun at 67<sup>th</sup> and Halsted. As they headed toward the location of incident, they received information that a black Chrysler vehicle with a male occupant was involved in the incident being driven by a black female. Officer C toured the vicinity of the incident and observed a Chrysler vehicle matching the description.

Simultaneously, Officer C observed Beat 735R (Officer A and Officer B) behind the black Chrysler and followed behind them. The Chrysler appeared to be coming to a stop, but did not stop. Officer C drove parallel to the Chrysler as Officer B and Officer A followed behind the Chrysler. The Chrysler struck Officer C's vehicle as it turned onto Peoria street. Officer C continued to drive parallel to the Chrysler. Officer D motioned with his flashlight for Witness 1 to curb the vehicle. Officer D also observed Subject 1 to be in possession of a gun and informed Officer C of such.

Witness 1 struck Officer C's vehicle again, at which time Officer C placed/struck his vehicle against the Chrysler. As Officer C continued to parallel Witness 1 he heard a gunshot. Officer C had not observed Subject 1 exit Witness 1's vehicle. As he was focused on controlling his vehicle. Witness 1 stopped her vehicle and Officer C exited the SUV and pursued a fleeing Subject 1 who had possession of the gun in his right hand.

Officer C observed Subject 1's head and right hand (holding gun) turn simultaneously toward Officer A, who was also pursuing Subject 1 on foot. Officer A discharged his gun and Subject 1 fell to the ground onto his buttocks. Officer C observed Subject 1 lying on the ground but could not ascertain if Subject 1 was still in possession of the gun. Subject 1 appeared to be positioning himself to get up from the ground. As Officer C approached Subject 1 he heard two gunshots. Subject 1 fell backwards to the ground; Officer C observed the gun fall from Subject 1's hand. The gun was still within

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Subject 1's reach and accessible to him, so Officer C kicked the gun out of Subject 1's reach. Immediately thereafter, Officer B and Officer A handcuffed Subject 1.

In his **statement** to IPRA on 17 MAY 2011, **Officer D** related essentially the same account of the incident as Officer C. In addition, Officer D related that as Officer C drove parallel to Chrysler he observed Subject 1 removing a gun from his waistband. Officer D observed Subject 1 exit Witness 1's vehicle and flee on foot with a gun in his right hand. Officer D related that their vehicle (passenger side door) was against the Chrysler's driver side door; which temporarily prevented Officer D and Witness 1 from exiting the vehicle. Officer D observed Officer A when he exited his squad car and pursued Subject 1 on foot. Officer D stated that Officer A screamed, "Police, police" to Subject 1. At that point, Subject 1 turned to his right (gun in hand) in the direction of Officer A. Officer A discharged one round; and Subject 1 fell to the ground. Subject 1 attempted to get up while still in possession of the gun. Officer B immediately exited the squad car and discharged two rounds in the direction of Subject 1. Subject 1 fell to the ground again and dropped the gun from his hand. Officer C scooted the gun with his foot out of Subject 1's reach and Officer B placed Subject 1 in custody.

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**CONCLUSION AND FINDING:**

This investigation revealed that the use of deadly force by Officer B and Officer A was in compliance with the Chicago Police Department Policy pertaining to the use of Deadly Force. 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."

The actions of Officer B and Officer A were in accordance with sections A(1) and A(2) of the Chicago Police Department's Deadly Force policy. Officer B and Officer A observed Subject 1 to be in possession of a handgun as Subject 1 fled from the vehicle to defeat arrest. Subject 1 turned toward Officer A with the gun in his hand and held the gun in his hand even after he fell to the ground. In response to Subject 1's actions, Officer B and Officer A discharged their weapons in fear of their lives. Officer B, Officer A, Officer D and Officer C gave consistent and credible accounts of this incident. Subject 1's gun was recovered at the scene. Based upon the totality of the circumstances, Officer B and Officer A were reasonably in fear of their lives and discharged their weapons to prevent death or great bodily harm to themselves and each other.