

INDEPENDENT POLICE REVIEW AUTHORITY

LOG #1045750/ U#11-25

INVESTIGATION

NUMBER: LOG #1045750/ U #11-25

INVOLVED

OFFICERS: “Officer A” (Chicago Police Officer); Male/White; 33 years old;
On-duty; Plainclothes; Year of Appointment – 2000

“Officer B” (Chicago Police Officer); Male/Hispanic; 41 years old;
On-duty; Plainclothes; Year of Appointment – 2000

OFFICER’S

INJURIES: None Reported.

OFFENDER: “Subject 1”; Male/Hispanic; 20 years old

OFFENDER’S

INJURIES: One gunshot wound entered the left flank lateral spine and exited through the right shoulder. Non-fatal.

INITIAL

INCIDENT: Victim/Offender pointed a handgun from a vehicle in the direction of unknown youths. The vehicle was stopped by the involved officer, the victim/offender exited the vehicle and a foot chase ensued. The involved officers pursued the victim/offender into a yard where the victim/offender pointed a weapon at the involved officers. The involved officers fired their weapons striking the victim/offender.

DATE/ TIME/

LOCATION: 30 May 2011, 0118 Hours, 2057 N. Kostner Ave.
BEAT #2522

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SUMMARY OF INCIDENT:

On 30 May 2011, at approximately 0118 hours, the involved officers, Officers A and Officers B and CPD Sergeant 1 pursued a silver colored Saturn Vue after observing the rear passenger point a handgun out of the window. The pursuit ended in the alley at 4344 W. McLean. The rear passenger, now known as Subject 1, exited from the driver's side of the vehicle and pointed a handgun at the officers. Officer A, in fear for his life, immediately fired three shots at Subject 1.

Subject 1 ran with the handgun refusing to obey verbal commands to stop and drop the gun. Subject 1 entered the rear yard of 2053 N. Kostner, where he pointed the gun at Officer B. Officer B, in fear for his life, fired two shots at Subject 1. Subject 1 fled to the front of 2053 N. Kostner, where he was taken into custody. Subject 1 was bleeding and EMS was immediately notified. The gun possessed by Subject 1 was located in the rear yard at 2053 N. Kostner. Subject 1 was transported to Illinois Masonic Hospital.

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The offender, Subject 1, signed a refusal to talk report, present by a member of the public defender's office.

The witness, Witness 1, signed a refusal to talk report, present by a member of the public defender's office.

The arrest report of Subject 1 indicated that he was arrested for aggravated assault, UUW, and Issuance of Warrant by Officers A and B. The narrative of the report indicated that during a routine patrol, Officers A and B observed Subject 1 point a blue steel handgun (revolver) out of the backseat driver's side window at a group of unknown pedestrians. The officers attempted to curb the vehicle. Subject 1 then exited that vehicle with the weapon in his hand and pointed it at the officers. Officer A, fearing for his life and the lives of his fellow officers, shot three rounds at Subject 1. Subject 1 fled northbound in the alley of 4344 W. McLean and the officers gave chase.

At this time, Officer B confronted Subject 1 who pointed his weapon at Officer B. Officer B fired two rounds at Subject 1, who continued to flee. Officer A observed Subject 1 flee to the top of the porch at 2053 N. Kostner. Officer A ordered Subject 1 to get on the ground and Officer A performed an emergency take down and handcuffing. Subject 1 was subsequently transported to the hospital by paramedics. The weapon was recovered in the rear yard at 2053 N. Kostner.

The arrest report of Witness 2 indicated that he was arrested for UUW by CPD Sergeant 1 and Officer B. The narrative of the report related that Witness 2 was in the front passenger seat of vehicle, when Subject 1 was observed by the arresting officers to produce a large handgun through the window.

The arrest report of Witness 1 indicated that he was arrested for failing to stop at a stop sign, yield to a vehicle entering an intersection and driving wrong way on one-way street by Officers A and B. Witness 1 was observed committing numerous traffic violations in an attempt to elude to the arresting officers.

The case report related in essence the same information at the arrest report.

The Tactical Response Report completed by Officer A indicated that Subject 1 "fled," and "weapon." Officer A responded with "member presence," "verbal presence," "wristlock," "take down/emergency handcuffing," and "firearm." Officer A fired his weapon after observing the offender point a firearm at him and his partners, CPD Sergeant 1 and Officer B, thus placing Officer A to be in fear for his own life and the life of his partners. Officer A was standing 10 to 15 feet away when he fired his weapon at Subject 1.

The Tactical Response Report completed by Officer B indicated that Subject 1 "did not follow verbal direction," "fled," "imminent threat of battery," and "weapon."

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Officer B responded with “member presence,” “verbal presence,” and “firearm.” Officer B fired his weapon after observing the offender point a firearm at him and his partners, CPD Sergeant 1 and Officer A, thus placing Officer B to be in fear for his own life and the life of his partners. Officer B was standing 10 to 15 feet away when he fired his weapon at Subject 1.

The Tactical Response Report completed by CPD Sergeant 1 indicated that Subject 1 “did not follow verbal commands,” “fled,” “imminent threat of battery,” “weapon,” and “pointed handgun.” CPD Sergeant 1 responded with “member presence,” “verbal presence,” and “pointed firearm/did not shoot.” CPD Sergeant 1 pointed his weapon at the offender after observing the offender point a firearm at him and his partners, Officers A and B, thus placing CPD Sergeant 1 to be in fear for his own life and the life of his partners.

The Crime Scene Processing Report and Map indicated that Subject 1’s weapon was found in the alley of 2053 N. Kostner Avenue.

The evidence technician photographs depicted pictures of the scene, the recovered evidence, and Subject 1’s weapon (Black, revolver). The photos of Subject 1’s recovered weapon showed it to be laying in the grass in the backyard of someone’s home. The photos also depicted the offenders’ vehicle, a grey colored Saturn SUV, in an alley. The photos depicted bullet holes in a white garage. There was also a bullet fragment inside of a home.

The Ambulance report indicated that paramedics were called to the location of 2057 N. Kostner for a gunshot victim, Subject 1. When the paramedics arrived to the scene Subject 1 was handcuffed and laying in a prone position. Subject 1 was moving his extremities. Subject 1 had a large amount of blood loss in his clothes. Subject 1 had two gunshot wounds to the shoulder. Subject 1 was taken to Illinois Masonic Hospital for medical treatment.

The medical records of Subject 1 from Illinois Masonic Hospital indicated that he had a gunshot wound on right chest which entered the spine at the level of the 8th rib. The exit wound was in the right shoulder. Subject 1 complained of weakness and numbness of the right hand and right arm. The bullet may have injured his right shoulder as well. During Subject 1’s operation, a chest tube was inserted. Subject 1 also had a right pneumothorax, with possible right lung contusion, and right ulnar nerve palsy. Subject 1 was discharged from the hospital in stable condition.

The Case Supplementary Report related in essence the same information as the officers’ interviews and the summary of incident. The arrestee, Witness 1 refused to give the detectives an interview. The arrestee, Witness 2, stated that he was getting a ride from Witness 1. They stopped at a gas station and Subject 1 got into the car. As Witness 1 is driving around, a police car got behind them on Keeler as they passed Armitage. The officers activated the emergency lights and Subject 1 told Witness 1 to go. Witness 2 stated that the police car bumped the vehicle they were in and Witness 1 stopped in an

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alley. At this time, Subject 1 got out the car and ran with a gun in his hand. The officers fired two or three times and Subject 1 fled northbound. A short time later Witness 2 heard four or five more shots. Witness 2 was then placed into custody.

Subject 1 stated during an interview with detectives that Witness 1 picked him up from his home and Witness 2 was also in the vehicle. Subject 1 related that Witness 1 showed him a revolver and said that they would be protected. Subject 1 indicated that they were driving around in the neighborhood when the police began to follow them. According to Subject 1, Witness 1 refused to stop when the police tried to pull them over. Witness 1 pulled into the alley on McLean and gave him the gun and stated, "I have too many felonies." Subject 1 exited the rear driver's side door with the gun in his right hand. Subject 1 ran and the police were right behind him. Subject 1 indicated that he faced the officers and attempted to conceal the weapon in his pocket, or under his shirt, but the gun was too large. Subject 1 then heard three shots and felt pain in his back. Subject 1 continued running with the gun in his hand. Subject 1 turned around and saw another officer who stated, "Freeze police." Subject 1 was shot two more times and realized that he was still holding the gun. He dropped the gun in the rear yard and ran to the front where he was placed into custody.

Witness 3 (The interview was conducted in Spanish) stated to the detectives that she heard a vehicle screech and someone yell, "Stop." She observed flashing lights through the blinds and heard gunshots. A short time later she heard additional gun shots that appeared to be closer. Everyone in the house got onto the floor; when they felt it was safe, they looked outside and saw the police "everywhere." They went outside and checked their vehicle for damage. The vehicle was not damaged, but when they checked the house they observed a bullet hole in the first floor bedroom window. Witness 3 related that the police were notified. When the police were looking at the window she observed a bullet on the floor.

The OEMC event queries and CD recordings, indicated that at about 01:21 hours multiple residences around the area of Palmer and Kostner called 911 reporting shots fired. One witness was sitting on the back porch when they claim to have heard 6 shots fired. Another witness said they heard 6 shots going back and forth, from two different guns. Another witness, calling from a block away on Dickens, claimed to have heard about 5 shots.

At 01:22 hours, Beat 6757 was on McClean and Kildare behind a silver Saturn. The people in the Saturn were said to be affiliated with the Cobra gang. Soon Beat 6757 announced "shots fired at and by the police." The officers were not injured, but the offender was hit. Beat 155R announced the address of the location as 2057 N. Kostner by Dickens. Beat 2530R announced that the offender's gun has been recovered. Beat 6757 request the crime lab to secure the area. Beat 6757 then announced a slow down, which is also repeated by the dispatcher. Beat 2510R announces to keep the lane cleared for the ambulance. Beat 2531R announced that they are on the scene with an offender in the car, while another was already at the station. Beat 2512R announced that they were following ambulance 52, which was transporting the offender to Illinois Masonic Hospital.

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Attempts to contact the witness, “T-Mobile 773-799-6305,” and “Michele Gosanko (773-XXX-XXXX) were met with negative results. Witness 3 (773-XXX-XXXX) provided an interview to responding detectives and was documented in the case report.

A Reports from the **Illinois State Police (ISP), Division of Forensic Services**, indicates that Subject 1’s weapon, a Taurus, Model 689, 357 Magnum revolver, serial #K149990, was examined, found to be in good firing condition and test fired.

The reports further indicated that Officer B’s weapon, a Glock, model 22Gen4, 40 caliber semiautomatic pistol, serial #VPE508, was found to be in good firing condition.

Officer A’s weapon, Sig Sauer, model P226, 9 mm Luger semiautomatic pistol, serial #U 620 994, was tested and found to be in good firing condition.

The POD Video only depicts several police vehicles traveling in the vicinity of 1957 N. Kostner with their emergency lights activated. The POD video did not capture the actual incident or any other police activity.

The **canvass** conducted in the vicinity of 2057 N. Kostner did not produce any additional witnesses.

In a statement to IPRS on 30 May 2011, **the witness, Witness 4** stated that on 30 May 2011 he was on the process of moving into his apartment (2053 N. Kostner, 2nd Floor) when he heard a gunshot and observed a flashing light in the back yard. Witness 4 then observed an officer chasing someone. Witness 4 was unable to see the person that the officer was chasing. The officers then stated, “Police, stop,” and the officer continued to run. Witness 4 then heard the officer shoot his gun and heard the unknown person, now known as Subject 1, scream that he had been shot in the leg. The officer ran to the front of the building. Witness 4 looked out the front window and observed Subject 1 on the ground and he appeared to be handcuffed. Witness 4 related that several officers arrived on the scene along with an ambulance.

In statement to IPRA on 30 May 2011, the involved member, Officer A, stated that when he first observed the vehicle, which was a SUV, he saw someone point a weapon out of the vehicle and at a group of unknown people. Officer A described the weapon as being a blue steel gun. Officer A and his partners, Officer B and CPD Sergeant 1, began to follow the vehicle. Officer B activated the emergency lights and the vehicle began to elude them. CPD Sergeant 1 made notifications that a possible chase was in progress. Once the vehicle was in a T-alley in the vicinity of 4344 W. McLean, the vehicles collided and one of the occupants of the vehicle, now known as Subject 1, exited the vehicle with the gun in his hand and pointed it at Officer A. Officer A immediately fired his weapon three times at Subject 1 for fear of his life.

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According to Officer A, a foot chase ensued between him, Officer B, and Subject 1. During the foot chase, Officer A lost sight of Subject 1. Officer A was not sure if he had struck Subject 1 when he fired at him the first three times. Officer A indicated that he and Officer B weren't together when they pursued Subject 1. As Officer A searched for him, he heard two gun shots. Officer A observed Subject 1 running along side of a house in the vicinity of 2053 N. Kostner. Officer A approached Subject 1, who was now on a porch, with his gun drawn and ordered him to get down off the porch, which he complied. Subject 1 came down off the porch and Officer A conducted an emergency takedown and handcuffing procedure. Officer A initially did not know Subject 1 had been shot, but then noticed it when he got blood on his hand during the handcuffing. Officer A called for an ambulance.

In a statement to IPRA on 30 May 2011, the involved member, Officer B, stated that on 30 May 2011 he was in the vehicle with Officer A and CPD Sergeant 1. Officer B related that they were in the vicinity of Keeler and Armitage when they observed a person, now known as Subject 1, pull out a gun and point it at unknown people in the street. Subject 1 was inside of a SUV. Officer B related that he activated that emergency lights and attempted to curb the vehicle, but the individuals refused to stop. CPD Sergeant 1 made notification of the chase over the radio. Officer B related that the occupants of the SUV stopped in an alley in the vicinity of McLean and Kostner. Officer B drove into the back of the SUV, because they kept stopping abruptly. Subject 1 exited the vehicle and pointed the gun in the officer's direction. At this time, Officer A fired his weapon three times at Subject 1. Subject 1 began to run away from the officers and Officer B pursued him on foot.

Officer B related that as he attempted to pursue Subject 1, he took his time going around the corner because he lost sight of Subject 1. Subject 1 then appeared from behind a wooden fence with a gun pointed at Officer B. Officer B proceeded to shoot twice at Subject 1. Subject 1 continued running toward Kostner. Subject 1 no longer had the gun in his hand. Officer B ran behind Subject 1, but by the time he caught up with Subject 1, Officer A was handcuffing him. CPD Sergeant 1 remained with the offender's vehicle and secured the other occupants. Subject 1's weapon was secured by the other officers on the scene.

In a statement to IPRA on 30 May 2011, the involved member, CPD Sergeant 1 stated that on 30 May 2011, he was in the squad car with Officers A and B. CPD Sergeant 1 related that he was in the backseat of the squad car when he heard Officer B say the vehicle in front of them was moving fast. CPD Sergeant 1 looked up and observed a large weapon being pointed out of the driver's side rear window of the vehicle (Silver colored, SUV, Saturn Vue) in front of them. CPD Sergeant 1 related that the weapon was pointed at a group of people standing on the street.

Officer B continued following the SUV and activated the emergency lights. The SUV immediately stopped in front of them causing them to bump into the SUV. The person with the gun (now known as Subject 1) exited the backseat of the vehicle and began running. CPD Sergeant 1, along with Officers A and B, exited the vehicle.

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Subject 1 turned toward Officer A with the gun in his hand and Officer A fired his weapon at him three times. Subject 1 took off running and Officer B pursued him along with Officer A. CPD Sergeant 1 indicated that he stayed with the vehicle that was still occupied by two other people. CPD Sergeant 1 further reported that he did not believe Subject 1 was struck by Officer A firing his weapon at him. CPD Sergeant 1 said he heard two more shots soon after Subject 1 fled. CPD Sergeant 1 heard over the radio that Subject 1 was placed into custody. CPD Sergeant 1 placed the other two people into custody with the assistance of Officer B who had returned from pursuing Subject 1. CPD Sergeant 1 indicated that Subject 1's weapon was recovered. CPD Sergeant 1 never saw Subject 1 again, because he was placed in an ambulance.

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CONCLUSION AND FINDING:

This investigation found that the use of deadly force was **JUSTIFIED** and 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. has attempted to escape by use of a deadly weapon or;
 - c. otherwise indicated that he or she will endanger human life or inflict great bodily harm unless arrested without delay."

Officers A and B's actions were in accordance with both the conditions of CPD's policy. The officers observed Subject 1 point his weapon at a group of unknown people in the street. The officers pursued the vehicle Subject 1 was in and, when the vehicle was finally curbed, Subject 1 exited the vehicle with his weapon pointed at the officers. Subject 1 admitted in the Department reports that he had a gun in his right hand when he exited the vehicle. Witness 2 also reported Subject 1 possessed a gun when he exited the vehicle. Subject 1 and Witness 1 refused to give an interview to IPRA.

Officers A and B announced their office and ordered Subject 1 to drop his weapon and he refused. Subject 1 pointed his weapon at the officers, causing them to be in fear of their lives, which resulted in Officers A and B firing their weapons at Subject 1 to prevent great bodily harm to themselves.