

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1046859/ U# 11-36

INVESTIGATION

NUMBER: LOG# 1046859/U# 11-36

OFFICER

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 34 years old;
On Duty; In Civilian Dress; Year of Appointment – 1999

SUBJECT: “Subject 1”; Male/Black; 23 years old

SUBJECT’S

INJURIES: Gunshot wounds to the neck, right arm, right elbow, right ring finger, and left wrist. Pronounced dead at Christ Hospital at 2348 hours on 11 July 2011.

INITIAL

INCIDENT: Officers were responding to a call of shots fired in the vicinity of 94th street and Justine.

DATE/TIME

OF INCIDENT: 11 July 2011, 2311 hours

LOCATION:

1765 W. 95th Street – alley
Beat 2213

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SUMMARY OF INCIDENT:

On 11 July 2011, at approximately 2311 hours, Officer A and Officer B were patrolling together in an unmarked squad car when they heard a report over the radio of shots fired in the vicinity of 9400 S. Justine. As they drove east on 95th Street toward Justine, the officers observed four black males who matched the description of the subjects involved in the shots fired call. When the officers followed the males south onto Wood Street, the males looked at them and ran. The officers observed that one of the subjects, now known to be Subject 1, had a gun. Officer B attempted to trap Subject 1 by angling the squad car toward a building, but Subject 1 turned and ran in the opposite direction. Officer A got out of the car to run after Subject 1. Officer A repeatedly ordered Subject 1 to drop his weapon, which Subject 1 ignored. Subject 1 pointed his gun in Officer A's direction. Officer A fired his own weapon at Subject 1 from a distance of approximately twenty feet. Subject 1 fell to the ground and dropped the gun. The other three individuals were not caught.

INVESTIGATION:

A **Canvass** of the vicinity of the incident produced no additional witnesses.

The related **Department reports** provide an account of the incident that is consistent with the Summary of Incident described above. Officer A completed a Tactical Response Report documenting his use of force indicating that he fired twelve shots from his handgun. He and Officer B completed Officer's Battery Reports to document that Subject 1 pointed a gun at them. In separate statements to detectives, Officers Bentley and Findysz provided essentially the same accounts of the incident that they provided in their statements to IPRA.

The **Crime Scene Processing Reports** list the physical evidence that was recovered from the scene. The reports indicate that twelve cartridge casings and one fired bullet were recovered from the scene. Two weapons were inventoried: Officer A's Glock semi-automatic pistol, and Subject 1's Ruger semi-automatic pistol that was recovered from the alley. A fired bullet (Inventory #12363874) was recovered from 1509 W. 94th Street. Two fired bullets were recovered from Subject 1's body during the postmortem examination. A gunshot residue test was performed on Subject 1's body at the Medical Examiner's office.

Evidence Technician photographs depict the location of the incident and the recovered evidence. Photographs of Subject 1 depict gunshot wounds to the front of his neck, arm, and hand. Subject 1 is deceased in the photographs.

The **Chicago Fire Department Ambulance Report** indicates that paramedics discovered Subject 1 to be unconscious and not breathing upon their arrival. He had gunshot wounds to the head, neck, and right arm. They transported him to Christ Hospital.

The **Medical Examiner's Report of Postmortem Examination** indicates that Assistant Medical Examiner Doctor A performed the examination on Subject 1 on 12 July 2011. The examination revealed that Subject 1 died of multiple gunshot wounds. One bullet entered the right side of Subject 1's neck with a trajectory of front-to-back, left-to-right, and downward. A fragment of that bullet was recovered from Subject 1's lung. A second bullet entered the right arm and exited above the right elbow. Another bullet also entered the right arm near the elbow. A fragment of that bullet was recovered from the upper right arm. The direction of the bullet is from the dorsal (top/outer) to ventral (bottom/inner) sides of the arm. A fourth bullet entered and was recovered from the right hand at the fourth finger. The bullet appeared to have struck another object before entering Subject 1's hand. A fifth bullet entered and exited the left wrist. A fragment of the bullet was noted in the vicinity of the wrist. Doctor A noted several small lacerations, abrasions, and contusions near the gunshot wounds and on Subject 1's face. Some of those lacerations appeared to be related to the gunshot wounds. There is no sign of stippling or sooting on any of the wounds that would indicate close range firing. Subject 1's blood was negative for benzoylcegonine (cocaine metabolite), ethanol, and opiates.

Medical Examiner photographs taken during the postmortem examination depict Subject 1 and his injuries.

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The **Internal Affairs Division Synoptic Report** indicates that drug and alcohol tests conducted on Officer A in the hours following the incident were negative.

Office of Emergency Management Communications (OEMC) Event Queries for the incident indicate numerous individuals called 911 stating they heard shots fired in the vicinity of 94th and Justine. One of the callers reported seeing several males running down the street with guns. None of the other callers reported that they saw anything and there were no calls to 911 about shots fired at 95th and Wood. Beat 6728A (Officer A) reported the 10-1 at 95th and Wood at 2311 hours. He or Officer B requested an ambulance at that location and reported shots fired by the police. A recovered weapon was reported at 2314 hours.

A report from the **Illinois State Police Division of Forensic Services (“ISP”)** dated 28 July 2011 stated that Officer A’s weapon was examined, found to be in firing condition and test fired. Twelve recovered cartridge casings were identified as having been fired from Officer A’s weapon. Five fired bullet fragments could not be identified or eliminated as having been fired from Officer A’s weapon.

An **ISP report** dated 23 September 2011 stated that the Gun Shot Residue test performed on Subject 1 was positive for primer gunshot residue (“PGSR”) residue, which indicates that he “may have discharged a firearm, may have been in the environment of a discharged firearm, may have contacted a PGSR related item with the right hand, or may have received the particles from an environmental source.”¹

An **ISP report** dated 09 October 2012 stated that there was no indication of the presence of blood on Subject 1’s Ruger handgun.

An **ISP report** dated 11 October 2012 stated that examination of Subject 1’s Ruger handgun and its two live cartridges revealed no latent impressions suitable for comparison.

An **ISP report** dated 15 December 2012 stated that Subject 1’s Ruger handgun was examined and found to be in firing condition. The fired bullet that was recovered from 1509 W. 94th Street was found to have been fired by the Ruger.

In a statement to IPRA on 12 July 2011, **Witness Officer B** related that he was working in plainclothes in a light blue unmarked squad car with Officer A. Officer B was assigned to Beat 6728D and Officer A was assigned to Beat 6728A. The officers normally patrol the five districts² of Area 2, but they were specifically directed to pay attention to an area in the 006th District on 11 July 2011. When they were on patrol, the officers heard a call that four black males had fired guns at 94th Street and Justine and ran west from that location. One of the males was described as being heavysset and wearing dark clothing. The officers drove east on 95th toward that location. When they got to Wood Street, they saw a heavysset black male running south across the street with three additional black males behind him. Officer A told Officer B that he believed these individuals were the offenders of the shots fired call. He also reported this over the radio. Officer B turned south onto Wood to follow and stop the males. The males looked

¹ Attachment 35, page 1

² At the time of this incident, Area 2 consisted of the 003rd, 004th, 005th, 006th, and 022nd Districts.

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at the squad car and started running. The heavyset male continued to run south on Wood while the other three ran east into the alley, where one of them jumped over a fence and ran through a yard. One of the males who remained in the alley, later learned to be Subject 1, had his right hand tucked into his clothing at his side as he ran east into the alley. Based on Subject 1's actions, Officer B believed that he was holding a gun. Officer B then saw a black steel gun in Subject 1's right hand. Officer B yelled that Subject 1 had a gun. He heard Officer A report this over the radio. Officer B sped up the car to try to catch Subject 1. Because of the gun, Officer B focused on Subject 1 rather than the other male who was far ahead of him in the alley. Officer B tried to cut off Subject 1 by stopping the car at an angle, but Subject 1 turned around and ran west. Officer A got out of the squad car and chased Subject 1. He heard Officer A repeatedly scream for Subject 1 to drop the gun. Officer B looked in the rear-view mirror to see if he should continue to drive or get out of the squad car himself. He saw that Subject 1 was stumbling as he ran. Officer B figured that Officer A would be able to catch Subject 1, so he got out of the car to assist on foot. As Officer B got out of the car, he heard 8-12 rapid gunshots. He saw that Subject 1 was pointing his gun in the officers' direction. Subject 1 then fell to the ground. He realized that Officer A had shot at Subject 1. Officer B immediately reported shots fired over the radio. Officer B ran to Subject 1 and saw that he appeared to be trying to get up. Officer B saw the gun on the ground. Officer A used the antenna of his radio to move the gun away from Subject 1. Officer B used his radio to call for an ambulance. Officer B could not recall whether he removed his gun from the holster during the incident. He stated that he did not fire his weapon because Subject 1 was already falling to the ground by the time Officer B assessed the situation. The officers did not handcuff Subject 1 because he was injured and did not need to be handcuffed once they made sure he could not get the gun.

In a statement to IPRA on 13 July 2011, **Involved Officer A** related that he was working in plainclothes in a light blue unmarked squad car with Officer B. Officer A was assigned to Beat 6728A and Officer B was assigned to Beat 6728D. The officers were on a directed patrol when they head a call of shots fired at 94th Street and Justine. The report was that four black males in dark clothing were shooting in that area. One of the males was described as being heavyset. As the officers approached that area, Officer A observed a heavyset black male crossing 95th Street north-to-south near the Metra tracks at Wood Street with three additional black males behind him. Officer A reported over the radio that they had four subjects who matched the description of the shots fired call and requested assistance from additional officers. Officer B slowly turned onto Wood Street so the officers could conduct a field interview with the four black males. When they reached the alley, the heavyset male ran south on Wood Street and the other three males ran east in the alley. One of the three males in the alley jumped over a fence. The officers pulled into the alley behind the other two males, one of whom was holding his side as he ran. Officer A focused his attention on that male, who was later identified as Subject 1. Based on the original call of shots fired, and the way Subject 1 was holding his side, Officer A believed that Subject 1 was either holding a gun or had just put a gun in his waistband. Officer A reported the males' movements over the radio. As he did so, he heard Officer B say that Subject 1 had a gun. Officer A then saw that Subject 1 had pulled out a black/blue steel gun and was running with it in his right hand. Officer A continued to report this over the radio. Officer B stopped the car at an angle to cut off Subject 1's progress in the alley, but Subject 1 turned around and started running west. The other subject in the alley continued running east. Officer A did not pay attention to that male's progress because he was focused on Subject 1. Officer A got out of the car, announced

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his office, and repeatedly told Subject 1 to drop the weapon. Subject 1 continued running, then turned toward Officer A and pointed the gun in his direction. Officer A was not sure where Officer B was at that point but he believed that Officer B was out of the squad car as well. Officer A felt an immediate threat that Subject 1 would shoot him or Officer B. Officer A fired his weapon at Subject 1 twelve times. Subject 1 fell to the ground. Officer A approached Subject 1 and saw that the gun was lying on the ground between Subject 1's legs. Because Subject 1 was still moving, Officer A used his radio's antenna to move the gun away from Subject 1. Officer B requested an ambulance over the radio and Officer A used his radio to report that he fired his weapon. Once additional officers arrived, an officer was assigned to watch the gun. The officers did not handcuff Subject 1 because the weapon was secure and it did not appear that he was able to get up and run away.

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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 03-02-03, II.:

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 like 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 were in accordance with the first condition of CPD's deadly force policy. He and Officer B were in the area because of calls of shots fired and a report that several people were running down the street with guns. When the officers tried to stop and talk to Subject 1, he ran from them and held his side in such a way that made them think that he had a gun. Subject 1 then removed a gun from his waist area. Officer A ran after Subject 1 and repeatedly yelled for him to drop the gun. Subject 1 did not listen to Officer A and instead pointed the gun at him. Officer A fired his weapon at Subject 1 to prevent Subject 1 from shooting him or Officer B. Officer A stopped shooting at Subject 1 when the threat was no longer present. The gunshot residue test performed on Subject 1 was positive and a bullet recovered at 1509 W. 94th Street was fired from his Ruger.