

Independent Police Review Authority
Log#1046988 / U #11-37

INVESTIGATION

NUMBER: U# 11-37, Log #1046988

INVOLVED

OFFICER: “Officer A” (Chicago Police Officer); Male/Hispanic; 34 years old;
On- Duty; Civilian Dress; Year of Appointment – 2003

SUBJECT: “Subject 1”; Male/Black; 33 years old

SUBJECT’S

INJURIES: Two through-and-through gunshot wounds to the right leg. (Deceased)

INITIAL

INCIDENT: Call of shots fired

DATE/TIME: 16 July 2011, 1623 hours

LOCATION: 52 N. Parkside Ave, Chicago, IL 60644

SUMMARY OF INCIDENT:

It is reported that Beat 1532 responded to a call of “shots fired” in the area. A foot chase ensued after a subject, Subject 1, fled from a stopped vehicle while holding his waistband. Officer A, pursued Subject 1, who turned and discharged his weapon at Officer A in a vacant lot at 5667 W. Washington. The foot chase continued to the rear staircase at 52 N. Parkside, 3rd Floor, where Subject 1 pointed his weapon at Officer A. In fear for his life, Officer A discharged his weapon at Subject 1. Subject 1 sustained two gunshot wounds (entry and exit wounds) to the right leg and was transported to Loyola Hospital where he expired.

At the time of the shooting at 52 N. Parkside, Subject 1’s weapon fell out his hand and fell off the third floor staircase. Officer B, while using a glove, recovered Subject 1 weapon from the ground at 57 N. Parkside. The magazine ejected from the weapon as it struck the ground and was recovered by Officer C.

INVESTIGATION:

In an interview with IPRA, Witness 1 stated that she was at home with her mother, Witness 2, her girlfriend, [Friend of Witness 1], and her younger sister, [Sister of Witness 1]. Witness 2 heard three gunshots coming from the front of her building. Witness 1 looked out of her apartment and saw a boy, Subject 1, running towards the building parking lot located on the Westside of the building. Witness 1 ran out onto the back porch and saw Subject 1 running up the back porch stairs, towards the third floor, with a gun in his hand. Witness 1 stated that Subject 1 then threw his weapon from the porch towards the roof across from him. Subject 1 missed the roof and the weapon landed on the ground.

A uniformed officer (now known as Officer A) then came into the back area after the gun had been thrown. Officer A proceeded up the stairs to the third floor landing. Officer A had his weapon drawn and then fired his weapon in the direction of Subject 1. Witness 1 indicated that Officer A did not give any verbal direction to Subject 1. Witness 1 was unable to see Subject 1 because there is a brick wall obstructing her view. Witness 1 then observed Officer A go up the stairs and drag Subject 1 down to the landing and then down to the third floor out of view of the witnesses. Witness 1 believed that Subject 1 was shot in the leg. Witness 1 related that she and the other witnesses were unable to see what Subject 1 was doing at the time he was shot.

In an interview with IPRA, a witness, Witness 2, stated she was in her bedroom when she heard gunshots and ran to the window with her daughters, Witness 1 and [Sister of Witness 1]. About five minutes later, Witness 2 saw the people sitting in the parking lot of her apartment building, directly west of the building, get shot at from the alley. A squad car was driving down Washington and reversed to go down Parkside to the alley in back of their building. Witness 2 and her daughters ran out onto the back porch.

During this time, Witness 2 observed Subject 1 run into the courtyard and up the first set of rear stairs at 52 N. Parkside. Subject 1 ran up to the landing of the third floor stairs and threw his gun up towards the roof of the building across from the landing. Subject 1 missed and the gun fell to the ground as a male white officer in uniform ran into the courtyard and up the stairs of 52 N. Parkside. Witness 2 related that the officer saw the gun lying on the ground as he ran up the stairs to the third floor landing where he shot once at Subject 1. Witness 2 related that Subject 1 was up on the third floor past the landing and that she could not see Subject 1 but she could clearly see the officer.

After Officer A shot once, he ran up the stairs from the third floor landing and dragged Subject 1 back down to the landing by his neck and then dragged him back up the stairs to the third floor out of Witness 2's view. Subject 1 had wrestled with the officer who told him to "get down." Witness 2 saw blood on Subject 1's right leg and assumed he had only been shot in the leg and would be alright.

In an interview with IPRA, a witness, Witness 3, stated she was with her boyfriend, (Now known to be Subject 1), and were driving around in his brother's Cadillac Escalade. They were also with Subject 1's brother, "[Nickname]" (No further information). During this time, Witness 3's grandmother, [Grandmother of Witness 3], called her and told her that she needed to

buy some food for her child. Witness 3 purchased the food and Subject 1 took her back to her apartment on XX N. Parkside. Subject 1 parked on Parkside to buy some marijuana from her (Witness 3) friends “[Male First Name #1]” and “[Male First Name #2].” Subject 1 began arguing with her friends about the cost of the drugs. Subject 1 then drove off and dropped Witness 3 off at her apartment. Witness 3 entered her home, during which time she heard gun shots.

A few minutes later, Subject 1 rang her doorbell and told Witness 3 that he was parked in the back. Witness 3 assumed that he was in the alley near her back porch. Witness 3 went out her back door and went down the stairs but she did not see Subject 1 or the car. She walked west through the alley and turned into the parking lot that is west of her building. When she got to the middle of the parking lot, Subject 1 ran past her followed by a police officer. Witness 3 did not know why he was running or why the officer was chasing him. Subject 1 looked at her when he passed her but did not say anything to her. Witness 3 continued walking out of the parking lot toward Washington when she heard a gunshot. Witness 3 was unable to see what was happening because there were vehicles obstructing her view. Witness 3 lay down on the sidewalk and heard two or three more gunshots. Witness 3 got up and observed “[Nickname]” get into the driver’s seat of the Escalade and drive away.

Several officers arrived in the area looking for Subject 1. Witness 3 returned to her apartment. When she arrived home, her grandmother, [Grandmother of Witness 3], told her that Subject 1 had been shot. [Grandmother of Witness 3] said that Subject 1 knocked on the back door one time, called for Witness 3 and told her to open the door because he had been “hit.” Witness 3 partially opened the door and she saw Subject 1 lying in a pool of blood, then a police officer told her not to open the door.

Witness 3 went onto the back porch to see if Subject 1 was okay. During this time, a black male officer told her not to touch Subject 1 and get off the porch. Witness 3 went back in her apartment and stood in the doorway. Another officer came and asked her for Subject 1’s name and information. Witness 3 stated that she knew Subject 1 had guns, but he did not normally carry a gun when he was with her. Witness 3 did not see a gun in Subject 1 hand when he ran past her in the parking lot.

The **article with from the Chicago Sun-Times** indicated that two witnesses (who are believed to be Witness 1 and Witness 2) stated that they observed “[Subject 1 First Name]” (now known to be Subject 1) throw his gun away before he was fatally shot. The witnesses related that the officers arrived on the scene seconds later and shot Subject 1. The witnesses refused to give their names for the article.

The **Tactical Response Report (TRR)** completed by Officer A, documented that Subject 1 “did not follow verbal command,” “fled,” “used force likely to cause death or great bodily harm,” and “weapon.” Officer A responded with “member presence,” “verbal commands,” and the use of his “firearm.” The report indicated that Officer A fired his weapon once. It is reported that Officer A gave chase to a man with a gun. Subject 1 repeatedly fired a 9mm pistol at Officer A as he fled. Officer A, fearing for his life, discharged his weapon at Subject 1.

The **Chicago Fire Department ambulance report** indicated that on 16 July 2011, EMS 3, C117, responded to the location of 52 N. Parkside involving a gunshot wound victim, Subject 1. Upon the paramedics' arrival, Subject 1 was unconscious and unresponsive. The patient was transported unresponsive, in cardiac arrest, to Loyola Hospital. Subject 1 had a single gunshot wound to the right femur with exit wound in the back of the thigh. The supplementary case report (HT-406247) indicated that Subject 1 was pronounced on 16 July 2011, at 1712 hours.

During the **canvass** conducted in the vicinity of 52 N. Parkside, a [Grandmother of Witness 3] (the grandmother of Witness 3) stated that she heard gunshots, but she did not witness the incident. Witness 2 was identified as a witness during a canvass of the location of incident. Witness 2 had been interviewed prior to the canvass by IPRA personnel. There were no other witnesses located during the canvass.

The **Medical Examiner's Report** indicated that Subject 1 sustained a distant range entrance wound to the right posterior thigh and exit wound to the right medial thigh. Subject 1 also had brain, cerebral edema, smoker's bronchiolitis, chronic active hepatitis, mild arteriosclerosis and alcohol intoxication. Subject 1 died as a result of a gunshot wound of the thigh. Manner of death is homicide.

The **photographs from the Medical Examiners Office** depicted two gunshot wounds, exit and entry, to the right leg.

Illinois State Police Forensic Science Laboratory Reports documented under Lab Case #C11-032061 that Officer A's firearm was tested and in firing condition. The unfired cartridges were analyzed for caliber and type only. A gunshot residue was administered to Subject 1's hands. The test 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 the procedure.

The related **OEMC Event Queries and the OEMC audio recordings** documented that on 16 July 2011 an unknown female called reported hearing four (4) to five (5) gunshots on the corner of Parkside near Madison. The female caller further reported that the police were already on the scene. It was further reported that two (2) shots were fired at the police, and the suspects were going eastbound on Parkside. There was a call for "officer needs assistance" on a back porch on Parkside and Washington to recover the gun. The gun was recovered. Beat 1523 recovered the offender's magazine to his weapon.

It was further report that shots were fired by the police and the offender was shot. A request for an ambulance was made for the location of 52 N. Parkside. There was a call over the radio indicating that the officers were still searching for a gold Escalade. It was reported that the name of the offender was [Wrong Name] (now known to be Subject 1) and he was in critical condition.

The **evidence technician photographs** depicted pictures from scene, 52 N. Parkside. The photographs also depicted over ten shell casings on the scene, a large amount of blood on a wooden porch/staircase, and Subject 1's weapon, which is a black finish 9mm Ruger, next to a loaded magazine.

The **Crime Scene Processing Report** indicated that the Subject 1's weapon was recovered by Officer B. Officer C recovered the magazine from Subject 1's weapon. Nine (9) expended shell casings and one (1) live round were recovered from the scene. The expended shell casings and the live round were from Subject 1's weapon. Subject 1's weapon was swabbed on the scene for DNA. Subject 1's clothing was recovered at the Medical Examiners Office. Subject 1's body was tested for GSR, photographed and finger printed at Loyola Hospital.

In the **Supplementary Reports filed under RD #HT-400454 (Assault Aggravated/P.O.: Handgun)**, Officers A, B and Witness 3 were interviewed by the assigned detectives and they related, in essence, the same information as stated in their interviews with IPRA.

In her statement to IPRA, Witness 1 provided an account which contradicted the narrative (RD #HT - 400454) she provided detectives regarding the incident. Witness 1 stated to the assigned detectives that she was in her room of her apartment (XXXX W. Washington), when she heard approximately four gunshots. Witness 1 and her mother, Witness 2, relocated to the back porch area and observed Subject 1 run up the stairs; she then observed a uniformed police officer, now known as Officer A, enter the rear gate and proceed up the same stairs. Witness 1 observed Officer A on the second floor exterior landing, with his gun drawn. Witness 1 said Officer A stopped suddenly, like he saw someone. Witness 1 related she could not see Subject 1 at this time. Witness 1 then heard one gunshot. Witness 1 observed Officer A walk down the stairs out of her sight. Witness 1 did not see Subject 1 again until he was in custody.

Witness 1 further related to the detectives that, on 17 July 2011, two newspaper reporters from the Chicago Sun-Times came to her house to interview her about the shooting. Witness 1 told the detectives that her mother, Witness 2, told her to lie to the Chicago Sun-Times reporters.

The **Detective Supplementary Reports filed under RD #HT-406247 (Homicide/Justifiable Homicide)**, indicated that the reporting detectives conducted an interview with the witness, Witness 4. Witness 4 related that she was inside of her residence, XXXX W. Washington Apt. #XX, when she heard gunshots. Witness 4 stated the shots sounded as if they were coming from Madison and Parkside.

Witness 4 then heard more gunshots and looked out her east window towards the sound of the gunfire, which was the open parking lot at 5657 W. Washington. Witness 4 observed the offender, now known as Subject 1, firing a handgun at a uniformed officer, now known as Officer A, as she observed Subject 1 running south bound through an open gate on the southeast corner of the lot. Witness 4 stated that Officer A was 20-30 feet behind Subject 1 with his weapon in his hand still pursuing Subject 1. Witness 4 observed Subject 1 run east bound in the south alley of Washington with Officer A in pursuit. Witness 4 related she lost sight of both

Subject 1 and Officer A and a short time later heard one additional gunshot. Witness 4 did not witness the police shooting.

During an interview with the assigned detectives, the witness, Witness 2 stated, on 16 July 2011, she was at her residence located at XXXX W. Washington when she heard approximately four to five gun shots. Witness 2 and her daughter, Witness 1, relocated to the back to the rear porch and observed a black male, in his twenties, dark complexion, and skinny (now known as Subject 1) open the gate and run up the first stair case with a black gun in his hand. Witness 2 then observed a uniformed officer (now known as Officer A) come through the gate. Officer A searched around the ground level and then looked up at the stairs. Officer A slowly proceeded up the stairs. Witness 2 then heard Officer A yell "freeze" and then heard one gunshot. Witness 2 indicated that she could not see the male black with the gun or what the officer shot at, from her point of view.

Witness 2 further stated to detectives that, a few days after this incident, a male white, in a suit (now believed to be investigators from IPRA) came to her home and interviewed her and her daughter, Witness 1. Witness 2 related she lied¹ to the male white in the suit, because she does not like the police and wanted to get Officer A in trouble.

Witness 5 was interviewed by the assigned detectives under RD #HT-406247. Witness 5 indicated that he observed Subject 1 inside of a cream colored Cadillac Escalade and he was shooting at several people on the street near Parkside and Washington. Witness 5 indicated that when the police arrived on the scene, his friend, Witness 6, told the officers where the Cadillac Escalade had fled to. The officers observed the vehicle on Parkside and Washington and stopped in front of the vehicle. Subject 1 exited the vehicle and fled westbound on Washington. The officers pursued Subject 1. Witness 5 related that he ran south on Parkside and, as he passed the south alley of Washington, he heard several gunshots and observed Subject 1 running in his direction. Witness 5 indicated that he knew Subject 1 was the same person shooting from the Cadillac earlier, but did not see him in possession of a firearm. Witness 5 further related he did not witness the police shooting.

Witness 6 was interviewed by the detectives. Witness 6 said that, on 16 July 2011, he and his cousin, Witness 7, attempted to sell marijuana to Subject 1, who was a passenger in a Cadillac Escalade. According to Witness 6, when Witness 7 went around the corner to complete the transactions, he heard six (6) gunshots fired in his general direction. Witness 6 ran toward the sound of the gunfire, which was on Parkside and Washington, to check on Witness 7. When Witness 6 arrived at the location, he learned that Witness 7 had been shot in the arm.

Witness 6 then observed two Chicago Police Tahoes and flagged one of them down to tell the officers what had just occurred. Witness 6 informed the officers that the Escalade was parked on Washington. The officers pulled in front of the Escalade and Subject 1 exited the vehicle and fled on foot. A short time later, Witness 6 heard five more gunshots. Witness 6 walked south bound on Parkside and observed Subject 1 running toward Parkside eastbound, in the south alley of Washington towards him, with a uniformed officer chasing him. Witness 6

¹ Witness 2 had related in her statement to IPRA that Subject 1 had dropped his gun before Officer A shot him.

stated that Subject 1 then ran into a rear gangway just west of Parkside on the north side of the south alley of Washington. Witness 6 continued running south bound on Parkside and did not witness the police shooting.

The reporting detectives interviewed the witness, Witness 7. Witness 7 stated that his cousin is Witness 6 and Witness 7 sells marijuana on Parkside. Witness 7 attempted to conduct a drug transaction with Subject 1, during which time Subject 1 began shooting at Witness 7. Witness 7 fled from Subject 1. As Witness 7 ran, he was struck on the arm by the bullet. Witness 7 ran through some yards and made his way to his grandmother's house located at XX S. Parkside. A short time later, Witness 7 heard four or five additional gunshots coming from the area of Washington and Parkside. Witness 7 stayed at XX S. Parkside until he came into contact with the detectives. Witness 7 did not witness the police shooting.

In statement to IPRA on 17 July 2011, the **involved member, Officer A**, stated that, on 16 July 2011, he was working Beat #1532 with Officer B. Officer A stated that he received a call of "shots fired" over the radio for the area of Madison and Parkside. Officer A indicated that when they got to the area of Washington and Parkside there were several individuals on the sidewalk and one of the individuals waved them down. The unknown individual told Officer A that he was shot at by a person in a white Cadillac Escalade that was parked on Washington. He and Officer B drove closer to the corner and observed the white Escalade parked on Washington. They drove closer to the vehicle and blocked its path with the squad car. The officers exited the vehicle and Officer A stated, "Let me see your hands," several times to the driver. Officer A related that he had his gun in his hand during this time. The driver complied and put his hands in the air. At this time, a black male individual (now known to be Subject 1) emerged from the backseat. Subject 1 exited that rear passenger side of the Escalade and began running west.

Officer A holstered his weapon and began chasing Subject 1 on foot. As he observed Subject 1 fleeing, he observed him holding something in his right hand. Officer A ordered Subject 1 to stop running several times but he refused. Officer A explained that he could not see exactly what was in his hand, but it appeared to be black with a grip. Officer A continued to chase Subject 1 through a vacant lot. As Subject 1 was running through the lot, he removed the gun from his waistband, pointed the gun at Officer A and fired the gun two to three times at him. Officer A then made a call of shots fired over the radio. While Officer A made the call over the radio, Subject 1 fired his weapon at him again. Officer A then took out his gun. Subject 1 then continued running out of the lot through a gate.

Officer A continued to pursue Subject 1 on foot and observed him run through an opening of a gate of an apartment building parking lot. Once Officer A arrived at the gate, he observed Subject 1 run up to the second floor of a back porch. As Officer A entered the gate, he observed Subject 1 lean over the railing and point his weapon down toward his general direction. Officer A proceeded toward the stairs and then began walking up the stairs. As Officer A was walking up the stairs, Officer B called his (Officer A) name several times. Officer A ignored him because he did not want to give up his position to Subject 1. Officer A continued to walk up the stairs, during which time he told his partner of his whereabouts.

Officer A further related as he was going up the stairs, he observed Subject 1 coming down the stairs with the gun in his hand and Officer A told him to “put the gun down.” Subject 1 then proceeded to point his weapon at Officer A, and Officer A fired one round at him. Officer A indicated that the side of Subject 1 body was facing him when he fired his weapon at him. Subject 1 released the gun and it fell off the porch and onto the ground. Officer A put his gun down and then told Officer B where the gun was located. Officer A ordered Subject 1 to sit down, but he did not comply. Subject 1 walked past him and knocked on the door of one of the apartments and then sat down. Officer B was on the landing by this time and placed Subject 1 in handcuffs. Officer A indicated that he was scared and shocked. Officer A related that Officer B reported the shots fired. Officer A holstered his weapon and went back down the stairs.

In a statement to IPRA on 16 July 2011 the **witness, Officer B** stated that, on 16 July 2011, he was working Beat 1532, with Officer A. Officer B related that they went to the location of Washington and Parkside for a call of “shots fired.” When they arrived in the vicinity of Madison and Parkside, they were flagged down by an unknown citizen. The person told Officer B and Officer A that someone in a Cadillac Escalade fired shots at them. The officers searched for the vehicle and found the Escalade on the south side of Washington Street facing eastbound. Officer B indicated that he was driving at the time and he pulled in front of the Escalade to prevent the vehicle from leaving. Officer B and Officer A ordered the driver of the vehicle to show his hands and he complied.

At this time, another person, now known to be Subject 1, emerged from the backseat of the vehicle on the passenger side of the vehicle and ran. Officer A immediately pursued Subject 1. Officer B related that when Subject 1 exited the vehicle, he attempted to place something in his waistband. Officer B entered the vehicle and followed Officer A and Subject 1. Officer B drove to a parking lot just west of an apartment complex and observed Subject 1 fleeing southbound through the parking lot. Officer A continued to pursue Subject 1. Officer B was watching Officer A chasing Subject 1 through the lot, at which time Subject 1 raised a pistol and fired two to three shots towards him and Officer A. Officer A continued to pursue Subject 1 on foot through the lot. Officer B immediately called out “shots fired” over the radio.

Officer B then drove through the alley to Washington, but was unable to locate Officer A and Subject 1. Finally, Officer B parked the squad car in the west alley of Parkside and searched for Officer A and Subject 1 on foot. Officer B yelled out for Officer A and he replied that he was at the “last gate.” As Officer B approached the last gate, he heard a loud boom, which he believed was a gunshot. He yelled out to Office Lopez and then heard a body fall onto the porch, followed by loud metal bang on the cement. Officer B then observed Subject 1’s weapon on the ground near him at 52 N. Parkside, at the last gate; he picked it up and recovered it. Officer B was wearing gloves when he recovered the weapon. Officer B proceeded up the stairwell and immediately handcuffed Subject 1 who was not moving at this time. Officer B then checked on Officer A and then called for an ambulance on the radio. Officer B signaled for another officer to check Subject 1’s body; he took Officer A downstairs because Officer A appeared to be “shook” by the situation. Officer B indicated that he did not know what happened to the Escalade and the driver inside of it.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A 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 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."

Officers A and B responded to the location of 52 N. Parkside for "shots fired" in the area. When they arrived on the scene, they were flagged down by an unknown citizen who stated that the shooter was in a Cadillac Escalade. Officers A and B located the Escalade and attempted to arrest the occupants. When the officers first arrived on the scene, they only saw one person in the vehicle, which was the driver. During this time, a person, Subject 1, appeared from the backseat. Subject 1 exited the vehicle and began running. As Subject 1 was running, it appeared that he was holding onto something in his waistband. Officer A pursued Subject 1 on foot. As Officer A pursued Subject 1, Subject 1 fired his weapon several times at Officer A, but he did not strike him.

Officer A followed Subject 1 onto a stairwell at the location of 52 N. Parkside. Subject 1 was ordered to drop his weapon by Officer A, but he refused. Subject 1 pointed his weapon at Officer A, at which time Officer A fired his weapon once at Subject 1. Subject 1 fell onto the porch and then released the gun that fell to the ground. Officer B recovered Subject 1's weapon.

The witness, Witness 4, stated in the detective supplementary reports, that she observed Subject 1 shooting at Officer A. The witness, Witness 7, stated Subject 1 was shooting at him prior to the officers arriving on the scene. Witness 7 was grazed by a bullet fired by Subject 1.

Officer A's actions were in accordance with the requirements of the Department's Use of Deadly Force Policy. Officer A was in accordance with the statute "to prevent death or great

bodily harm to the sworn member or to another person” because he reasonably believed his life was in danger when Subject 1 pointed a weapon at him. Officer A account of the incident was supported by several witnesses.