

Independent Police Review Authority
Log #1047225 / U #11-41

INVESTIGATION

NUMBER: Log #1047225 / U# 11-41

OFFICER

INVOLVED: “Officer A” (Chicago Police Captain); Male/White; 48 years old;
On- Duty; In Uniform; Year of Appointment – 1986

OFFICER’S

INJURIES: None Reported

SUBJECT:

“Subject 1”; Male/Black; 21 years old

SUBJECT’S

INJURY: One gunshot wound to the upper left back, One gunshot wound left
buttock (2 total). Taken to Mt. Sinai Hospital for treatment.

DATE/TIME:

25 July 2011, 2008 hours

LOCATION:

600 N. Sawyer Avenue, Chicago IL 60624

SUMMARY OF INCIDENT:

This investigation, in conjunction with information gained through the investigation launched by the Chicago Police Department, revealed the following.

On 25 July 2011, Chicago Police Officer B, C and D were on bicycle patrol as part of the 11th District Bicycle Patrol Unit, Beat 1104. At approximately 2000 hours the officers were joined by Officer A, also on a bicycle.

As the officers rode north on Kedzie Avenue they observed a Tactical Unit on a subject stop at the southeast corner of Franklin Boulevard and Kedzie Avenue. Officer A and the bicycle patrol officers began to ride towards the Tactical Unit, when the subject they were interviewing suddenly took flight on foot.

The subject, now known as Subject 1, fled north across Franklin Boulevard. Officer A pursued Subject 1 on his bicycle. Throughout the pursuit, Subject 1 was observed making furtive motions about his waistband. As the pursuit reached the vacant lot at 547 N. Sawyer Avenue Officer A observed Subject 1 to now be holding a firearm in his right hand. Officer B pursued Subject 1 across the vacant lot, as Officer A continued north bound in the alley in an attempt to cut off Subject 1's flight.

When Officer A reached the corner of Ohio Street and Sawyer Avenue, he found himself directly in front of Subject 1. Officer A would later relate that Subject 1 raised his right arm, and pointed his firearm directly at him. Officer A yelled, "Police, Stop!"

Subject 1 moved diagonally across the intersection, towards the northwest corner of Ohio Street and Sawyer Avenue. Officer A, still on his bicycle, pursued Subject 1 across the intersection. Officer A was directly behind Subject 1 when he (Subject 1) raised his right arm back towards him, and again pointed his firearm at Officer A.

Officer A fired his weapon three (3) times at Subject 1. Subject 1 dropped his firearm and fell to the ground. Officer A continued to ride closer to Subject 1; he then dismounted from his bicycle and stood guard over Subject 1 until additional officers arrived. Subject 1 was handcuffed and medical attention was requested immediately. The scene was protected and preserved for forensic processing.

Subject 1 was taken to Mt. Sinai Hospital where he was treated for a gunshot wound to his upper left back and a second gunshot wound to his left buttock. Subject 1 would later tell responding CPD detectives that he ran from the police, as he believed he had an outstanding warrant. Subject 1 also related to the detectives that he did not have a firearm on or about his person at the time he was shot.

INVESTIGATION:

The **Department Reports** list Subject 1 as the offender in this event. The reports further indicate that Subject 1 was shot by a CPD officer after he (Subject 1) pointed a semi-automatic pistol at Officer A. Subject 1 was subsequently charged with Two (2) counts of Aggravated Assault to a Police Officer and One (1) count of Unlawful Use of a Weapon.

The reports indicate that a Smith & Wesson, .380 caliber semi-automatic pistol, Model SW380, Serial #RAJ6760, was recovered from Subject 1. The weapon was found to be loaded with four (4) live rounds. The Departmental reports are consistent with the summary within this report, and the statements provided by the involved officers.

The **Medical Records obtained from Mt. Sinai Hospital** indicate that Subject 1 was treated for a gunshot wound to his upper left back, and a second gunshot wound to his left buttock. Projectile fragments were found to be lodged in Subject 1's chest; surgery was performed to remove them successfully. The gunshot wound to Subject 1's buttock had a corresponding exit wound at the left hip.

The **Tactical Response Reports (TRR'S)** and **Officer's Battery Reports (OBR'S)** completed by Officer A and Officer B document that Subject 1 did not follow verbal direction, fled, was an imminent threat of battery, and was armed with a firearm. The Officers responded with member presence and verbal commands. Officer A alone responded with the use of his firearm.

The **OEMC reports** were collected and made part of this case file. An analysis of said documents show no information that is inconsistent with the facts as related by the involved and witness officers.

In her statement to IPRA on 26 July 2011, **Witness 1** related that she was sitting on her front porch at XXX N. Sawyer when she observed an unidentified young black male run past her home. Witness 1 stated that moments later she heard a gunshot. Witness 1 turned her attention towards the corner of Ohio Street and Sawyer Avenue and saw [Subject 1 First Name] Subject 1 riding a bicycle, being pursued by two police officers who were also on bicycles.

Witness 1 heard a second gunshot, and observed Subject 1 fall off of his bicycle onto the ground, landing on his back. Witness 1 related that the shorter of the two officers rolled Subject 1 onto his stomach, and handcuffed him. Witness 1 related that Subject 1 yelled out words to the effect of, "You shot me!" to which the shorter officer replied, "Shut the fuck up."

Witness 1 further related that she ran towards Subject 1 and the officers, and erroneously identified herself as Subject 1's cousin in an effort to stay on the scene and gather information from the officers. Witness 1 related that the shorter of the two officers,

now known as Officer B, was “pressing” against the gunshot wound to Subject 1’s buttock, as Officer B was holding Subject 1 down on the ground.

Witness 1 related that she did not see a firearm in Subject 1’s possession prior to his being shot, nor did she see the police officers remove one from him. Witness 1 also related that the first black male that ran past her home was not in possession of a firearm either.

Throughout her statement, Witness 1 maintained that Subject 1 was riding a bicycle at the time he was shot by the police. Witness 1 specifically related that Subject 1 was not holding a firearm at any time. Witness 1 related that she was sure of this, as she saw that Subject 1 had both of his hands on the handlebars of his bicycle as he was fleeing from the pursuing officers.

In his statement to IPRA on 26 July 2011, **Witness 2** related that he works for the Illinois Department of Corrections, and on the date and time of this event was working as private security for the Franklin Food and Liquors store located at 501 North Kedzie Avenue.

Witness 2 stated that he observed a young black male fleeing on foot, in a northwesterly direction through a vacant lot. Witness 2 related that two uniformed police officers, on bicycles, were in pursuit of the subject. Witness 2 related that the young man was holding his waistband with his right hand as he fled. Witness 2 did not see if the subject was, or was not, holding a firearm.

Witness 2 related that he lost sight of the subject and the officers as they rounded the nearby corner. Witness 2 heard 3-4 gunshots moments later.

In a statement with IPRA on 26 July 2011, **Witness 3** related that she was in the vacant lot next to 611 North Sawyer with her boyfriend, Witness 4, when she observed a young black male run north on Sawyer Avenue.

Witness 3 related that two uniformed police officers were on bicycles, in pursuit of the subject, who is now known as Subject 1. Witness 3 related that the officers yelled for Subject 1 to stop and that Subject 1 continued to flee on foot. Witness 3 related that Subject 1 looked back over his shoulder towards the officers, at which time one of the pursuing officers, who is now known as Officer A, fired his weapon twice. Witness 3 related that the shots were fired either in the air, or over Subject 1’s head. Witness 3 advised that the officers again yelled for Subject 1 to stop, though Subject 1 continued to flee. Witness 3 related that at that time a third shot was fired, apparently striking Subject 1 in his lower extremities. Subject 1 subsequently fell forward. Witness 3 related that a concrete barrier obstructed her view of the area around Subject 1 when he fell.

Witness 3 related that Subject 1 was not holding a firearm as he fled from the police. Witness 3 advised that she could see both of Subject 1’s hands as he was running and that she could see that both of his hands were empty.

In a statement with IPRA on 26 July 2011, **Witness 4** related that he was in the vacant lot next to 611 North Sawyer with his girlfriend, Witness 3, and a co-worker identified as Frank Armstrong. Witness 4 related that they were drinking beer and talking, when he observed a black male running towards the northwest corner of Ohio Street and Kedzie Avenue.

Witness 4 observed that this subject, now known as Subject 1, was being chased by police officers on bicycles. Witness 4 related that the officers were yelling, "Stop! Police!" as they pursued Subject 1. Witness 4 related that one of the officers, now known as Officer A, got off of his bicycle and fired twice at Subject 1. Witness 4 believed that Officer A fired warning shots at an angle not meant to hit Subject 1. Witness 4 related that Officer A then fired a third shot and Subject 1 fell forward.

Witness 4 related that he was 50-60 feet away from the incident and that a police car obstructed his view when Subject 1 fell. Witness 4 related that Subject 1 was not holding a firearm as he fled from the police. Witness 4 advised that he could see both of Subject 1's hands as he was running and that he could see that both of his hands were empty.

In a statement to IPRA on 26 July 2011, **Witness 5** related that he is the brother of Subject 1. Witness 5 stated that he was standing in the middle of Sawyer Avenue, in between Huron Street and Ohio Street, when he observed Subject 1 riding a bicycle on Sawyer Avenue.

Witness 5 stated that an unknown black male ran past Subject 1 and continued around the corner. Witness 5 claimed that at that time a gray police Crown Victoria pulled up behind Subject 1. Witness 5 related that the driver of the police car exited the vehicle and shot Subject 1.

Witness 5 further related that he had an unobstructed view of the shooting and that the officer was at a distance of approximately 10 feet from Subject 1 when he fired. Witness 5 related that the officer fired 4-5 times. Witness 5 advised that the officer who shot Subject 1 was a 6'2" black male wearing a blue shirt.

Witness 5 related that Subject 1 was not in possession of a firearm at the time he was shot by the police.

In a statement to IPRA on 28 July 2011, **Witness 6** related that Subject 1 is his cousin. Witness 6 related that he did not see the actual shooting, though he ran to the scene and arrived moments after he heard the last gunshot.

Witness 6 stated that the shooting officer was a white male outfitted in shorts and a helmet, consistent with the attire worn by bicycle officers. Witness 6 related that when he arrived at the scene, the officer was standing over a police bicycle.

IPRA Investigators conducted canvasses in an attempt to locate additional witnesses and/or evidence. No additional eyewitnesses were located, though several persons reported hearing gunshots. It is noted that no information was discovered on the canvass that refutes any of the statements provided by the involved or witness officers.

Attempts to interview Subject 1 were made. A certified letter requesting an interview was sent to Subject 1's attorney. On 31 October 2013, the R/I was contacted by Attorney A, who now represents Subject 1. The R/I was informed that Subject 1 would not be cooperating with the IPRA investigation.

Illinois State Police Forensic Science Laboratory Reports document the examination of the firearm possessed by Subject 1. No latent prints suitable for comparison were recovered.

The ISP reports show that the Gun Shot Residue (GSR) kit collected from Subject 1 failed to display the presence of particles consistent with the discharge of a firearm.

Court Documents regarding this incident show that Subject 1 was found Guilty by a jury of two (2) counts of Aggravated Unlawful Use of a Weapon. The charge of Carry/Possession of a Firearm in a Public Place was not pursued (nol pros). Subject 1 was found Not Guilty by a jury of Aggravated Assault against a Peace Officer.

A Civil Suit was filed in this matter. The civil suit, in essence, alleges that Officer A was shooting at an unknown black male who was fleeing from him on foot. The suit contends that Subject 1 was riding his bicycle when he was accidentally struck by the shots fired by Officer A. The civil suit further alleges that in an effort to conceal the fact that Subject 1 was accidentally shot, the involved officers falsely charged him and conspired against him by falsifying departmental reports and testimony.

Video Evidence obtained from Polaris Charter School did not capture any of the events leading up to the shooting nor did it capture the actual shooting.

Video Evidence obtained from surveillance cameras at Sacred Heart Hospital and a nearby strip mall show portions of the pursuit of Subject 1, though the actual shooting is not captured on video. All of the available video evidence shows a black male running from the bicycle patrol officers along a flight path consistent with the one described in departmental reports and in the involved officer statements. The subject in the video is wearing a black tee shirt, black tennis shoes, and tan shorts. The subject on the video is running, and not on a bicycle.

The Detective Supplemental Reports indicate that Subject 1 was wearing a white tee shirt underneath a black tee shirt, black tennis shoes, and tan shorts. The reports indicate that during a statement with CPD Detectives, Subject 1 advised that he ran from the police fearing that he had a warrant. The reports also document that the weapon possessed by Subject 1 was a .380 caliber pistol, loaded with 9mm rounds.

In a statement to IPRA on 26 July 2011, Officer E, related the facts concerning his involvement in this event in a manner consistent with the Departmental Reports and the Summary contained within this report.

Officer E related that he was involved in the original stop of Subject 1 and that he observed the Bicycle Unit pursue Subject 1 after he took flight. Officer E related that as Subject 1 was running, he was making movements with his hands in the area of his waistband. Officer E related that he was driving west on Ohio Street, approaching Sawyer Avenue, when he observed Subject 1 raise his right arm and point a black in color object at Officer A. Officer E related that he observed Officer A fire three times at Subject 1, at which time Subject 1 dropped the item he was holding as he fell to the ground.

In a statement to IPRA on 26 July 2011, Officer F, related the facts concerning his involvement in this event in a manner consistent with the Departmental Reports and the Summary contained within this report.

Officer F related that he was involved in the original stop of Subject 1. Officer F pursued Subject 1 on foot for a short distance and was joined in the pursuit by the Bicycle Unit. Officer F did not see the shooting, but heard the shots and arrived at the intersection of Ohio Street and Sawyer Avenue within moments. Upon his arrival, Officer F observed that Officer B was securing Subject 1 and Officer A was standing over Subject 1. Officer F also observed a small, black in color, semiautomatic handgun on the ground near Subject 1.

In a statement to IPRA on 26 July 2011, Officer D, related the facts concerning his involvement in this event in a manner consistent with the Departmental Reports and the Summary contained within this report.

Officer D related that he was part of the Bicycle Unit and was on patrol with Officer B, Officer C, and Officer A when they became engaged in the pursuit of Subject 1. Officer D related that during the pursuit he (Officer D) was approximately 25 feet behind Officer A and Officer B. Officer D observed Subject 1 turn towards Officer A, raise his right arm, and point a firearm at the Captain. Officer D related that Officer A fired three times at Subject 1, at which time Subject 1 dropped his firearm as he fell to the ground.

In a statement to IPRA on 26 July 2011, Officer C, related the facts concerning his involvement in this event in a manner consistent with the Departmental Reports and the Summary contained within this report.

Officer C related that he was part of the Bicycle Patrol Unit and was on patrol with Officer D, Officer B, and Officer A when they became engaged in the pursuit of Subject 1.

Officer C related that he was attempting to parallel the primary pursuit and was not in a position to see Officer A shoot. Officer C heard three (3) gunshots and continued to the intersection of Ohio Street and Sawyer Avenue, where he found Officer A and Officer B securing Subject 1. Officer C also observed a small, black in color, semiautomatic handgun on the ground near Subject 1.

In a statement to IPRA on 26 July 2011, Officer B, related the facts concerning his involvement in this event in a manner consistent with the Departmental Reports and the Summary contained within this report.

Officer B related that he was part of the Bicycle Patrol Unit and was on patrol with Officer D, Officer C, and Officer A when they became engaged in the pursuit of Subject 1.

Officer B related that as Subject 1 was running his right hand was on his waistband. Officer B related that Subject 1 ran through an alley and he pursued Subject 1 as Officer A traveled ahead, in an attempt to intercept Subject 1 on the next block.

Officer B related that during the pursuit, Subject 1 turned back towards him, and he was able to clearly see that Subject 1 had a black handgun in his right hand. Subject 1 pointed the weapon at Officer B. Officer B related that he was preparing to draw his weapon and shoot, when Officer A rejoined the pursuit and was now in between Subject 1 and Officer B.

Officer B related that Subject 1 turned back and pointed his firearm, at which time Officer A fired three shots at Subject 1. Officer B related that after the third shot, Subject 1 dropped his pistol as he fell to the ground.

Officer B then jumped off of his bicycle, rolled Subject 1 onto his stomach, and handcuffed him. Officer B related that Officer A called for an ambulance immediately. Officer B also related that Subject 1's firearm was left on the street where it had fallen, and not disturbed, in order to be preserved for forensic processing.

In a statement to IPRA on 10 July 2013, Officer A, related the facts concerning his involvement in this event in a manner consistent with the Departmental Reports and the Summary contained within this report.

Officer A related that he was pursuing Subject 1 on his bicycle and attempted to intercept Subject 1 at or near 549 N. Sawyer Avenue. Officer A related that as he neared Subject 1, Subject 1 raised his right arm and pointed a black in color semiautomatic pistol at him. Officer A related that he was unsure if the weapon had been retrieved from Subject 1 pocket, waistband, or if it had been in his hand prior. Officer A was certain the weapon came from Subject 1's right side.

Officer A related that Subject 1 continued to run across the intersection while pointing the weapon back at him with his right hand. Officer A related that he issued

multiple verbal commands for Subject 1 to “stop” and “drop the gun” during the course of the pursuit.

Officer A related that he fired his weapon three times, at which time Subject 1 fell to the ground and dropped his firearm. Officer A related that when Subject 1’s firearm struck the ground, the magazine fell out of it and the spring broke free from the magazine.

Officer A related that Subject 1 did not fire at him, though he believed that Subject 1 attempted to fire and had experienced a weapon malfunction of some kind. Officer A related that the way in which Subject 1 had pointed the weapon at him was of a manner deliberate enough to suggest that Subject 1 was trying to fire at him.

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 03-02-03, 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."

On 25 July 2011, at approximately 2008 hours, Officer A became involved in the pursuit of Subject 1. Officer A was operating with the Bicycle Patrol Unit, and was on his bicycle, while Subject 1 fled on foot. During the pursuit, Subject 1 displayed a .380 caliber semiautomatic pistol and pointed the weapon directly at Officer A. Subject 1 continued to flee while still pointing the weapon at Officer A.

Being in fear for his safety and the safety of his fellow officers, Officer A fired his service weapon three (3) times, striking Subject 1. Subject 1 dropped his firearm and fell to the ground.

Evidence Technician photographs documented the scene; the photographs are consistent with the information officers related in their statements.

A loaded Smith and Wesson .380 semiautomatic pistol was recovered. An examination of the pistol showed that it was loaded with 9mm rounds. Said ammunition may not successfully fire in a .380 caliber pistol. The outcome of attempting to fire 9mm rounds through a .380 caliber pistol may result in a weapons malfunction. In his statement, Officer A related that he perceived that Subject 1 was attempting to fire at

him, and that Subject 1 may have experienced a malfunction with his firearm that prevented him from successfully discharging his weapon. A later evaluation of Subject 1's firearm and the ammunition contained within supports Officer A's perception.

Officers B, C, D, E, and F all provided statements to IPRA that are consistent, and consistent with the statement provided by Officer A.

Eunice Hunt reported that she witnessed this event. Witness 1 reported that Subject 1 was riding a bicycle when the police shot him without warning. The available evidence shows that Subject 1 was running, and not on a bicycle. Witness 1's statement is inconsistent with the available evidence and lacks credibility.

Witness 5 reported that he witnessed this event. Witness 5 reported that Subject 1 was riding a bicycle when the police shot him without warning. The available evidence shows that Subject 1 was running, and not on a bicycle. Witness 5's statement is inconsistent with the available evidence and lacks credibility.

Witness 6 provided a statement to IPRA. Witness 6 related that he was present shortly after the gunshots were fired. An analysis of Witness 6's statement shows that his assertions are inconsistent with the available evidence and facts surrounding this incident.

Witness 3 and Witness 4 reported that they witnessed this event. Both parties related that Subject 1 was not holding a firearm at the time he was shot. Both parties were at a distance from the intersection of Ohio Street and Sawyer Avenue when the shooting occurred and both parties related that their view was obstructed by vehicles and construction in the immediate area where the shooting occurred.

A civil suit filed in this matter on behalf of Subject 1 asserts that Subject 1 was riding a bicycle at the time he was shot. Evidence technician photographs of the scene, officer statements, video surveillance footage, and Subject 1's own description of this event dispute those assertions, and show that Subject 1 was on foot.

The facts and circumstances surrounding this event show that Officer A was in compliance 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 imminent danger when Subject 1 lifted his arm with a firearm and pointed it in his direction. The reports document that there was a high likelihood that Officer A was in danger of "great bodily harm," as described in the statute, if Officer A did not stop the threat on his life by discharging his weapon.