

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1048096 / U #11-047

INVESTIGATION

NUMBER: Log # 1048096 / U# 11-047

INVOLVED

OFFICER #1: "Officer A" (Chicago Police Officer); Male/Hispanic; 32 years old; On-Duty; Plain Clothes; Year of Appointment – 2007

OFFICER'S

INJURIES: None Reported

SUBJECT/

OFFENDER: "Subject 1"; Male/Black; 19 years old

SUBJECTS

INJURIES: (1) gunshot wound to the chest. (1) gunshot wound to the right hand/wrist area. Treated at Mt. Sinai Hospital. Stable condition.

INITIAL

INCIDENT: Shots Fired by Police (Offender Hit)

DATE/TIME

OF INCIDENT: 30 August 2011, 1315 hours

LOCATION:

958 N. Parkside Avenue – on the street – Beat 1511

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SUMMARY OF INCIDENT:

On 30 August 2011, 015th District Tactical Officers developed information from a confidential informant that guns were being hidden in an abandoned building on the 900 block of North Parkside. Officer B remained in a covert car with the confidential informant, Confidential Informant, while the officers searched the rear of the target building. While in the covert car, which was parked in the alley behind 958 N. Parkside, Officer B saw the subject, Subject 1, who he recognized from previous arrests, in the rear yard of 958 N. Parkside. Officer B saw Subject 1 crawl under the rear porch through a missing section of lattice. Officer B radioed the other officers and informed them of Subject 1's actions. A short time later, Subject 1 exited the rear door of the porch and Officer B saw that he was holding an L-shaped object that appeared to be a gun wrapped inside a towel. Officer A and CPD Sergeant A pursued Subject 1 up the rear stairwell of the porch on 958 N. Parkside. As Officer A ran up to last set of stairs leading to the top rear porch, he saw Subject 1 running down the stairs in his direction with his hands under his shirt, near his front waist. Subject 1 continued to run towards Officer A and lifted his hand from under his shirt. Officer A, in fear of his life, fired three or four times, striking Subject 1 on his chest and right hand. Subject 1 was taken into custody and an ambulance was requested. After an extensive search, neither the offender's weapon, or the green towel were not recovered.

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The **arrest report** of Subject 1 indicated that he was arrested for Aggravated Assault of Officer A and CPD Sergeant A. The report indicated that Subject 1 was observed by Officer B carrying a handgun. The officers began to pursue Subject 1 to 958 N. Parkside Avenue. Officer A and CPD Sergeant A announced their office and asked Subject 1 to show his hands. Subject 1 proceeded to make furtive movements to his waistband as he lunged toward Officer A, placing him in fear for his safety. Officer A fired four (4) rounds striking Subject 1 in the chest. Subject 1 was subsequently placed into custody. Subject 1 was transported to Mt. Sinai Hospital.

The **preliminary report** completed by IPRA Investigator A related, in essence, the same information as the Summary of Incident section of the report.

The **Tactical Response Report** completed by Officer A for Subject 1, indicated that Subject 1 “did not follow verbal commands,” “fled,” and presented an “imminent threat of battery.” Officer A responded with “member presence,” “verbal commands,” and “firearm.”

During the **canvass** conducted in the vicinity of 958 N. Parkside, Property Owner (Owner of XXX and XXX N.?????) stated that he witnessed the incident, but refused to be interviewed.

The **Chicago Fire Department (CFD) Ambulance Record** indicates that EMT’s were dispatched 30 August 2011 at 1319 hours, to 5645 W. August Boulevard. and they arrived on scene at 1323 hours. The paramedics were told that the patient, Subject 1, was running from CPD with a gun. Subject 1 pointed a gun at the officers and Subject 1 was shot twice, once on the right hand and in the upper abdomen mid line. Subject 1 was transported to Mt. Sinai Hospital. Subject 1 was in stable condition.

The **Office of Emergency Management and Communications (OEMC)** Event Queries for 30 August 2011, at approximately 1316 hours, and audio transmissions provided information consistent with the Summary of Incident. It is further documented in the report that shots were fired by the police. A request for an ambulance was made. Ambulance #52 responded to the call. The report also related that a person was shot by the police. The report stated that Officer A shot an offender who tossed his weapon. Ambulance #52 transported a male (now known as Subject 1) to Mt. Sinai Hospital.

The **Preliminary Hospital Report** indicated that Subject 1 refused to give an interview. The Attending physician, Doctor A, indicated that Subject 1 sustained two gun shot wounds, one through and through to the right finger and another to the middle lower chest by the upper abdomen with the bullet lodged on the chest wall. Doctor A stated that Subject 1 had a fractured finger and was admitted for surgery. Subject 1 was in stable condition.

The **Crime Scene Processing Report and Evidence Technician Photographs, Sketch and Video Tape** depicts the location of the incident and the locations of recovered evidence. Officer A’ weapon was inventoried, a Springfield Armory USA-XP 45, 4” barrel, blue finish, inventoried under Property Inventory No. 12406408. The expended shell casings fired from the

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weapon of Officer A were photographed and inventoried. The photographs also depicted bullet holes in the frame of the back porch.

A report from the **Illinois State Police, Division of Forensic Services**, dated 22 September 2011, indicated that Officer A's weapon, Springfield Armory, Model XD-45 Auto caliber semiautomatic pistol, serial #SU784141, was found to be in good condition and test fired. There was no other testing conducted.

Subject 1's **medical records from Mt. Sinai Hospital** indicated that he was brought to the ER on 30 August 2011. Subject 1's admitting diagnosis was a gunshot wound to the chest/abdomen and an avulsion fracture of the 5th digit of the right hand. It was reported that Subject 1 was running from the police, he had a gun aimed at the police and Subject 1 was subsequently shot. According to the medical records, Subject 1 had a chest x-ray which came back within normal limits. The CT of the abdomen and pelvis depicted a bullet retained in his liver; an x-ray of his hand showed a comminuted fracture of the 5th proximal. Subject 1's discharge diagnosis was gunshot wound to the xipoid (Lower area of sternum) with a bullet retained in liver and avulsion of the right 5th digit with ray amputation of right 5th finger.

The **supplementary case report** provided by the detectives provided a synopsis consistent with the Summary of Incident. During an interview with the victim/offender, **Subject 1**, he stated he was walking west on Augusta from Central Avenue to go to his aunt's house on the corner of Augusta and Parkside. Subject 1 stated he was walking up the back stairs of the rear porch when he heard a group of people shouting at him to stop. Subject 1 ran up the stairs to the second floor because he was being chased by officers.

Subject 1 reported that he heard a white male officer shout, "He's got a gun." The officer then shot Subject 1. Subject 1 related that he ran because he was scared and because he is on probation for beating up his girlfriend. When asked, Subject 1 stated he didn't know his aunt's name and that she is just a "play auntie."

The detectives interviewed a witness, **Witness 1**, who stated that, at approximately 1300 hours, he was with Subject 1, walking westbound on Augusta. Subject 1 wanted to use the bathroom at his aunt's house at the corner of Augusta and Parkside on the first floor. Witness 1 was standing outside the fence at the back door of 958 N. Parkside, which Subject 1 entered. Seconds later, police officers came rushing towards Subject 1 as he was about to exit the back door. Witness 1 stated that the police told him to move and get out of there. Witness 1 stated he went towards the alley and he then heard the police say "Drop the gun. Drop the gun." Witness 1 stated he heard Subject 1 say, "I don't have a gun." Then the police officers began shooting.

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Witness 2 stated to the detectives that he was with Subject 1, walking westbound on Augusta. Subject 1 told him that he was going inside his aunt's house on the corner of Augusta and Parkside. Witness 2 related he stayed on the corner of Augusta and Parkside when he saw police officers rush the rear of the house. Witness 2 heard the officers say, "Drop the gun. Drop the gun." He also stated that he heard Subject 1 say, "I don't have a gun." Witness 2 heard shots being fired, and he did not see anyone run out of the front door of 958 N. Parkside.

Witness 3 stated that he was with Subject 1, Witness 2 and Witness 1. They were walking from Cortez and Central Avenue. All of them walked westbound on Augusta after Subject 1 told Witness 3 he was going use the bathroom on Augusta and Parkside. Witness 3 stated that he waited on the southwest corner of Parkside and Augusta. Witness 3 then heard who he thought were police officers say, "Freeze." A short time later he heard shots being fired. Witness 3 stated that he stayed on the corner and told the police what he had heard.

Witness 4 indicated in the case report he was in his bedroom, sleeping with his girlfriend, Witness 5. Witness 4 stated he and Witness 5 were awakened by the sound of gunfire. Witness 4 heard four shots coming from the rear of his residence. Witness 4 indicated that he and Witness 5 waited a few moments and then went to the back door. Witness 4 and Witness 5 opened the door and observed police officers on the back porch and on the stairs leading to the second floor. Witness 4 stated an officer told him to stay inside the house. Witness 4 heard a male (nka Subject 1) tell the police that his aunt lived there. Witness 4 indicated that Witness 5 told the officers that Subject 1's aunt did not live there. Witness 4 reported that he did recognize Subject 1 from the neighborhood, but that Subject 1 did not live in the building and had no right to be on the property.

Witness 4 stated one of the police officers asked him for permission to search his residence and the basement. Witness 4 agreed and signed a Chicago Police Consent to Search Form.

Witness 5 stated she was asleep with her boyfriend, Witness 4. Witness 5 stated she was awakened by three to four gunshots. Witness 5 related she dropped to the floor and waited approximately one minute. Witness 5 heard voices coming from the back porch. Witness 5 then heard a male saying "Don't move" and "Stay still." Witness 5 went to the rear of the house and looked out a window and saw police officers standing on her back porch. Witness 5 opened the rear door and saw officers on the stairwell leading up to the second floor. Witness 5 heard a male state "My auntie lives here." Witness 5 recognized the voice and told the officers that no such person lived there. Witness 5 observed a black male peer around the upstairs banister. Witness 5 recognized the male as "First Name" (nka Subject 1). Witness 5 was a friend of Subject 1's mother, and she knew Subject 1 from the neighborhood. Witness 5 stated Subject 1 had never lived at 958 N. Parkside or been in the building.

Confidential Informant informed the detectives that he was assisting the 15th District Tactical Team by identifying locations where he knew gang members were hiding guns. Confidential Informant stated that the officers had already recovered one handgun and they were at a second location where Confidential Informant said there was an AK-47 rifle in an abandoned house. Confidential Informant was with one of the tactical officers in a covert vehicle, parked in

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an alley off of Augusta Avenue. Confidential Informant observed a male black (nka Subject 1) walking into the house which was located on the corner of Parkside and Augusta (958 N. Parkside). Subject 1 crawled on the grass by some bushes near the rear porch of the building. Confidential Informant then saw Subject 1 crawl into the building through an opening in the fence. Confidential Informant stated the police officer in the van with him began to communicate Subject 1's actions over the police radio as it was happening. Confidential Informant reported that Subject 1 was in the building for approximately five minutes, and then he came out of the rear door.

Confidential Informant stated as Subject 1 walked out of the door, he was holding a green towel, which was wrapped around something. Confidential Informant related that the way Subject 1 was holding it led Confidential Informant to believe it could have been a gun. Confidential Informant reported that the officer in the van with him immediately informed the other officers that Subject 1 had just walked out of the building and that he was holding something that looked like a gun.

Confidential Informant indicated that the officers were walking in the alley, and then two of them began to chase Subject 1. Confidential Informant stated that Subject 1 saw the police officers coming toward him and they were shouting, "Police! Police!" Confidential Informant related that Subject 1 turned, ran inside the building and closed the door. Confidential Informant stated the officers gave chase and gained entry into the building, by which time Subject 1 was already running on the second floor. Confidential Informant stated the officer in the van then began to drive on Augusta, and that's when he heard shots being fired. Confidential Informant heard approximately 3 to 4 shots. Confidential Informant did not witness the police involved shooting.

Officer C reported he was working beat 1563C in civilian dress and was walking back toward Augusta in the west alley of Parkside Avenue. Officer C stated that Officer B transmitted a radio call of a man with a gun at 958 N. Parkside. Officer C indicated that Officer A and CPD Sergeant A were ahead of him and began to chase the offender (nka Subject 1), who was observed running back into the building at 958 N. Parkside Avenue. Officer C took position at the alley in an effort to cover the rear, in case Subject 1 doubled back. Officer C observed Subject 1 holding his waist, and heard the other officers shouting, "Show me your hands."

Officer C stated he observed Subject 1 running onto the second floor porch, which was open and visible from the alley. Officer C reported that he observed Subject 1 run back toward the stairs, and then lost sight of him. Officer C then heard several gunshots. Officer C could not provide any additional information related to the incident.

Officer D related in the report that he was working beat 1563E in civilian dress along with his teammates. Officer D stated they were working with a cooperating individual who was providing information on the location of an AK-47 assault rifle. Officer D was walking northbound in the west alley of Parkside with the rest of his team when a call came over the radio relating that a man with a gun was at 958 N. Parkside Avenue. Officer D related that Officer B observed a man (nka Subject 1) walking out of that address with a gun wrapped in a green towel. Officer D ran and took up a defensive position in the yard next door to the south along with Officer E. Officer D observed Subject 1 running on to the second floor porch, which

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was exposed and visible. Officer D observed Subject 1 with his hands down, as if he was holding a gun. Officer D shouted, "Drop the gun. Show me your hands." Officer D observed Subject 1 look in their direction, then attempted to run back down the stairs. Officer D then heard several gunshots and observed CPD Sergeant A on the landing between the first floor and the second floor. Officer D could not provide any additional information related to the incident.

Officer E stated he was working beat 1563C along with his teammates. Officer E stated they were working on recovering gang members' guns with the assistance of Confidential Informant, a cooperating individual, who had already led them to recover one handgun. Officer E was walking down the alley with his teammates when Officer B's call came out on the radio that a man with a gun was at 958 N. Parkside Avenue. Officer E took a position alongside Officer D in the rear yard to the south of 958 N. Parkside. Officer E observed the offender (nka Subject 1) on the second floor porch landing walking back and forth. Officer E stated that Subject 1 looked in their direction, then attempted to flee back down the stairs. Officer E related that Subject 1 was holding his waist as if he were holding a gun. Officer E and Officer D were both shouting, "Police. Show me your hands." Officer E indicated that Subject 1 did not comply with any verbal commands. Officer E then heard what sounded like three to four gun shots.

In **Civil Suit # 12 CV 07612**, which was filed 24 September 2012, by **Complainant/Victim, Subject 1**, alleged that on 30 August 2011, several Officers A, B, C, D, E and CPD Sergeant A, chased Subject 1 into an enclosed stairwell at 958 N. Parkside without good cause. The officers then fired their guns at Subject 1, without cause, and severely injured him.

On 15 September 2011, IPRA Investigator B spoke with **Subject 1's attorney, Attorney A**, who would not allow his client to be interviewed by IPRA. On 06 February 2014, IPRA Investigator B spoke with Attorney A, who stated that Subject 1 did not want to give an interview at this time.

Attempts were made to contact the **witnesses, Witness 3, Confidential Informant, Witness 1, Witness 2, Witness 4 and Witness 5**, via letters and personal visits. The witnesses never contacted IPRA.

In a statement to IPRA on 31 August 2011, the involved member, **Officer A**, provided an account of the incident that was consistent with the Summary of Incident, and the related Department Reports. Officer A further related that on 30 August 2011, he was in the vicinity of 900 N. Parkside looking for weapons in an abandoned building. At this time, Officer B stated over the radio that he saw Subject 1 with an object in his hand, which he believed was a handgun. Officer B was seated in a covert vehicle parked in alley on the 900 Block of Parkside when Officer A was inside the abandoned building.

As Officer A got closer to Officer B's location, 958 N. Parkside, he observed the suspect, now known as Subject 1. Subject 1 looked in Officer A direction and then attempted to tuck a shiny object into the waistband of his jeans. Subject 1 then opened the back door to the enclosed back porch stairway and entered the residence. Officer A could not identify what Subject 1 was tucking in his pants, but he believed it was a handgun. Officer A immediately pursued Subject 1.

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Officer A had run up a flight and a half of stairs, when he heard footsteps quickly running toward him down the stairs. At this time, Officer A observed Subject 1 with his hands “tucked” in his waistband just as Subject 1 began to lunge at Officer A as he came down the stairs. Officer A pointed his weapon at Subject 1 and, when Subject 1 suddenly removed his hands from his waistband, Officer A fired several rounds at Subject 1. Officer A indicated that he was two to three feet away from Subject 1 when he fired his weapon.

Officer A holstered his weapon and then handcuffed Subject 1. Officer A believed that CPD Sergeant A called for an ambulance. Officer A began searching the area for a weapon. Neither Officer A nor assisting officers recovered any weapons.

In a statement to IPRA on 30 August 2011, the witness member, **CPD Sergeant A**, related in essence the same information as the Summary of Incident, the Department reports and Officer A. CPD Sergeant A further stated that while he and other members of his team were looking for weapons in a yard, they received a call from Officer B over the radio. Officer B stated that he observed Subject 1 underneath a porch at the location of 958 N. Parkside. CPD Sergeant A and the other members of the team broke from their search and responded to 958 N. Parkside. Officer B then stated over the radio that he saw Subject 1 at the back door of the location and he appeared to be holding a gun. During this time, CPD Sergeant A and Officer A were standing at the opening of a gate at 958 N. Parkside. Subject 1 saw them and immediately shut the door. CPD Sergeant A indicated that he did not see a weapon at that point.

At this time, CPD Sergeant A and Officer A proceeded after Subject 1. He and Officer A kicked in the back door of the enclosed porch and proceeded up the stairs. Officer A was in front of CPD Sergeant A the entire time. When they got up to the second flight of stairs, Subject 1 began to come down the stairs at a fast pace. CPD Sergeant A then heard shots fired. Officer A then conducted a pat down of Subject 1 and placed him in handcuffs.

In a statement to IPRA on 30 August 2011, the involved member, **Officer B** related in essence the same information as the Summary of Incident, the Department reports and Officer A. Officer B stated that he was seated in a covert vehicle in the alley of 958 N. Parkside. At that time, Officer B observed Subject 1 under a porch in the backyard of 958 N. Parkside. Officer B related that he knew Subject 1 from previous arrests. Officer B indicated that he could not see what Subject 1 was doing under the porch and at one point he lost sight of him. Minutes later Subject 1 emerged from a door on the north side of the location and was cradling something in his hands that appeared to be a weapon wrapped in a green towel. Officer B immediately announced what he just observed over the radio to his team.

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At that time, the team responded to Officer B's call and Subject 1 saw them and immediately slammed the door behind him. Officer A made entry into the door. Officer B then drove to Augusta and Parkside to make sure Subject 1 didn't escape. During this time, Officer B heard about four shots fired. Officer B then called in the shots fired over the radio and asked for additional units and emergency services.

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CONCLUSION:

This investigation found that the use of deadly force by Officer A was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order 02-08-03, Section 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.

Officer A's actions were in accordance with both the conditions of CPD's policy. Officer A was in the vicinity of 900 N. Parkside attempting to locate weapons in the area. Officer B reported over the radio that he observed a person he knew by the name of Subject 1 with what appeared to be a gun wrapped in a green towel at the location of 958 N. Parkside. A confidential informant, Confidential Informant, and several other officers on the scene also observed Subject 1 holding what appeared to be a gun. Officer A responded to 958 N. Parkside and observed Subject 1 hide a shiny object in his waistband and flee into the stairwell. Subject 1 was ordered to show his hands and he refused.

Officer A pursued Subject 1 believing he was in possession of a weapon. As Officer A entered the stairwell, he lost sight of Subject 1, but he could hear his footsteps above him. Officer A then heard Subject 1 running quickly down the stairs towards him. Officer A then observed Subject 1 suddenly lunge at him with his hands tucked in his waistband before he quickly removed his hands, causing Officer A to be in fear of his life and fired his weapon at Subject 1 to prevent death or great bodily harm.