

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1048560/U #11-49

INVESTIGATION

NUMBER: Log #1048560
U #11-49

INVOLVED

OFFICER #1: “Officer A” (Chicago Police Officer); Female/White; 30 years old;
On Duty; In Uniform; Year of Appointment – 2005

OFFICER #1’s

INJURIES: None Reported

INVOLVED

OFFICER #2: “Officer B” (Chicago Police Officer); Male/Hispanic; 39 years old;
On Duty; In Uniform; Year of Appointment – 2005

OFFICER #2’s

INJURIES: None Report

VICTIM/

OFFENDER: “Subject 1”; Male/Hispanic; 25 years old (Deceased)

VICTIM/

OFFENDER’S

INJURIES: Multiple gunshot wounds. Pronounced dead at the scene.

DATE/TIME: 15 September 2011; 2231 hours

LOCATION: 5339 N. Kedzie Ave.
Beat 1712

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SUMMARY OF INCIDENT:

On 15 September 2011, Officer B and Officer A were working Beat 1763A and were assigned an unmarked squad car. Officer A was the driver and Officer B was the passenger and both were in uniform. At approximately 2220 hours, at 4920 N. Troy St., a person was shot. The first officers to respond were told that the shooter was in a dark colored SUV and provided that description on the radio. Officer A and Officer B were in the vicinity of 4857 N. Troy St. when they heard the gunshots and the description of the SUV. Officer A and Officer B toured the area and saw a dark colored SUV near Kedzie and Foster Avenues. Officer A and Officer B radioed other police units that they were following the SUV northbound on Kedzie Ave. and pulled it over at approximately 5339 N. Kedzie Ave. As Officer A and Officer B exited their squad car, Subject 1 exited from the front passenger seat of the SUV with a .45 Caliber semi-automatic handgun in his hand and fired it at the officers. At the same time Officer A and Officer B returned fire at Subject 1. Officer A fired four times at Subject 1, with two of her rounds striking the door of the unmarked squad car. Subject 1 ran east into the driveway between 5333 and 5343 N. Kedzie Ave., firing at Officer B as he ran. Officer B ran east towards the southwest corner of 5333 N. Kedzie Ave. while continuing to discharge his firearm at Subject 1. Officer A approached the SUV and secured the driver, now known as Subject 2. Subject 1 entered the driveway between the two buildings. Officer B reloaded a magazine into his firearm and made his way to the northwest corner of the building. Officer B then pursued Subject 1 into the driveway. Once in the driveway between the two buildings Officer B and Subject 1 continued to shoot at each other. At about this time, Officer C and Officer D arrived on the scene and approached the alley. Near the rear of the building located at 5333 N. Kedzie, Subject 1 slumped over and fell to the ground. Subject 1 continued to point his gun in Officer B's direction. Officer B continued to discharge his weapon at Subject 1 until Subject 1 dropped the gun to the ground. Officer B approached and kicked the gun away from Subject 1's reach. It was determined that Subject 1 fired his weapon approximately ten times.

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The Case and Tactical Response Reports contained an account of the incident that was consistent with the accounts provided by Officer A and Officer B. The reports indicated that Officer B discharged his firearm thirty times and Officer A four times during the incident. (Att's 29-34)

The Office of Emergency Management and Communications Event Queries stated that on 15 September 2011, at 22:28:33 hours, in the vicinity of 4859 N. Troy St. notification of "shots fired" was received. At 22:31:00 hours Beat 1763D (Officer B and Officer A) notified OEMC that they stopped a green Suburban at 5334 N. Kedzie Ave. At 22:31:42 hours, OEMC was notified of "shots fired." At 22:32:41 hours, OEMC was notified of "Shots fired at police/by the police." At 22:35:04 hours, OEMC was notified of a "Person shot." (Att's 19-28)

Evidence Technician photographs depict the scene of incident. The photographs depict what appears to be two bullet holes/strikes on the front quarter panel on the driver's side of an unmarked squad car. The photographs also depict Subject 1 lying on the pavement in the driveway. A black, semi-automatic handgun was on the ground near Subject 1's body. (Att's 38-42)

A canvass of the location of incident did not produce any additional witnesses or information. (Att. 10)

The Alcohol Breath Tests conducted on Officer B and Officer A returned Blood Alcohol Content readings of .000. (Att. 12)

A report from the Illinois State Police Division ("ISP") of Forensic Services dated 27 October 2011 stated that the results of the Gunshot Residue Tests indicate that Subject 1 discharged a firearm, contact a related item, or had his right hand in the environment of a discharged firearm. The weapon used by Subject 1 was not analyzed, but was determined to be probative. (Att. 63)

A report from the Illinois State Police Division ("ISP") of Forensic Services dated 04 January 2012 stated that the results of the weapons used by Officer B and Officer A were examined, test fired and found to be in firing order. (Att. 112)

The Office of the Medical Examiner Report of Postmortem Examination of Subject 1 determined that he sustained multiple gunshot wounds to the back of his head, to his chest, abdomen, his right shoulder, his back, arms, and both thighs. (Att. 64)

The toxicological analysis indicated that Subject 1 tested positive for ethanol (Vitreous Humor: 209 MG/DL; Peripheral Blood: 201 MG/DL). It was determined that Subject 1 died of multiple gunshot wounds. (Att. 64)

Attorney A who represents Subject 2 stated that he would not allow Subject 2 to

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give a statement to IPRA. (Att. 111).

In a statement to IPRA on 16 September 2011, Officer D, stated that at the time of the incident he was working with Officer C. Officer D stated he and Officer C responded to "Shots fired" in the vicinity of Troy and Ainslie Streets. As they drove east on Ainslie St. they heard a radio call of a fleeing vehicle from the location of incident. That vehicle was traveling northbound through an alley near Troy St. Officer D stated that he then drove northbound on Kedzie Ave. As they approached Foster Ave., Officer D heard another unit radio a flash message that they stopped a vehicle at 5335 N. Kedzie Ave. that was possibly involved in the shots fired incident. Officer D and Officer C relocated to that location and observed Officer A standing on the left side of an SUV and Officer B standing at the corner of a nearby building at the driveway. Officer D stated that he heard multiple gunshots. Officer D exited his vehicle and dropped the car's keys to the ground. Officer D picked up the keys and proceeded to follow after Officer B who had already entered the driveway. Officer D reached the mouth of the driveway and stood near the corner of the building. Officer D then heard two more gunshots and entered the alley towards the back. Officer D observed Officer B kick a firearm away from Subject 1, who was lying on the ground. Officer D stated that he never saw any officer(s), or Subject 1, discharge a firearm. (Att. 5)

In a statement to IPRA on 16 September 2011, Officer C stated that on the night of the incident she was working with Officer D. Officer C stated that she and Officer D responded to a call of "Shots fired" in the vicinity of Ainslie and Troy Streets. While driving to the location, the officers heard another radio call that a tactical unit was curbing a green Suburban at 5335 N. Kedzie Ave. that may have been involved in the incident. Officer C and Officer D then proceeded to 5335 N. Kedzie Ave. Upon arrival, Officer D stopped their squad car behind the tactical squad car. While exiting the squad car, Officer C heard gunshots, but could not tell where the gunshots were coming from. Officer D dropped his keys to the ground and proceeded to pick them up as Officer C continued toward the driveway. Officer C reached the mouth of the driveway and observed two figures near the back of the driveway. Officer C then heard gunshots coming from inside the driveway. Officer C drew her weapon and entered the driveway. About halfway into the driveway, Officer C saw Officer B standing near Subject 1, who was lying face down on the ground in the alley. Officer C saw Subject 1 pointing a handgun toward the mouth of the alley. Officer C heard a final gunshot and saw Subject 1's hand fall completely to the ground. Officer C and Officer D searched the immediate vicinity for additional offenders while Officer B kicked the firearm away from Subject 1's hand. (Att. 7)

In a statement to IPRA on 17 September 2011, Officer A stated that on the night of the incident she was working with Officer B. Officer A stated that she was driving their unmarked squad car with the driver's side window rolled down when she heard gunshots in the area of Albany Ave. and Ainslie St. While driving in the direction of the gunshots, Officer A monitored a radio transmission from another tactical unit relating information about black Suburban possibly involved in the shooting. Officer A and Officer B toured the area when they observed a dark colored SUV traveling northbound

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on Kedzie Ave. Officer A stated that she and Officer B pulled the SUV over because they believed it may have been involved in the shooting. Officer A radioed their location and notified dispatch of the traffic stop. Officer A exited the squad car with her weapon drawn. At this time, Officer A heard several gunshots and saw muzzle flashes coming from the passenger side of the SUV. Officer A immediately moved back and shielded herself behind the engine of her squad car. Officer A observed the silhouette of the person standing on the passenger side of the SUV, where she saw the muzzle flashes. Officer A and Officer B discharged their weapons in the direction of the person, now known as Subject 1, who was standing on the passenger side of the SUV. Officer A believed that she discharged her weapon four or five times. Officer A advanced toward the driver, now known as Subject 2, who had remained seated in the driver's seat of the SUV. Officer A observed Officer B near the corner of a nearby driveway where Subject 1 had fled into. Officer B told Officer A to secure Subject 2 while he pursued after Subject 1 into the driveway.

Officer A approached Subject 2 and instructed him to remain in the seat and Subject 2 responded, "I didn't even know that guy had a gun." Officer A stated that she continued to hear gunshots coming from the driveway. Officer A stated that she could not see what occurred between Officer B and Subject 1 while they were in the driveway. Officer A stated that she remained on the street with Subject 2 and never entered the driveway. (Att. 16)

In a statement to IPRA on 17 September 2011, Officer B stated that on the night of the incident he was working with Officer A. Officer B was the passenger in the unmarked squad car driven by Officer A. Officer B and Officer A were in the vicinity of Ainslie St. and Albany Ave. when they heard gunshots. Officer B and Officer A drove in the direction of the gunshots when they monitored a flash message that a black Suburban was possibly involved in the shooting. Officer B told Officer A that he had seen a vehicle matching that description traveling northbound on Kedzie Ave. Officer B and Officer A observed an SUV traveling northbound on Kedzie Ave. near Foster Ave and pulled it over. Officer B stated that he exited the passenger side of the squad car and walked a few steps to the right when he saw the SUV's passenger, now known as Subject 1 exit the SUV. Officer B stated that Subject 1 immediately began to fire a weapon in his direction. Officer B observed Subject 1 pointing an object in his right hand at him and saw muzzle flashes coming from that object. Officer B immediately began to discharge his weapon at Subject 1. Officer B related that he was out in the open and was unable to gain any cover when Subject 1 fired his weapon. Subject 1 ran east towards a nearby driveway as he fired at Officer B. Subject 1 entered the driveway between two buildings and out of Officer B's view. Officer B asked Officer A if Subject 2 was secure and Officer A said yes. Officer B then approached the corner of the building and looked into the driveway in an attempt to locate Subject 1. Officer B looked around the corner and observed Subject 1 standing about twenty feet into the driveway. Subject 1 immediately began to shoot at Officer B and he returned fire at Subject 1. Officer B observed Subject 1 move toward the rear of the driveway. Officer B entered the alley and moved towards a parked van for shielding. Officer B and Subject 1 continued to shoot at each other. Officer B observed Subject 1 fall to the ground, but Subject 1 continued to point his

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weapon and shoot at Officer B. Officer B observed Subject 1's hand fall completely to the ground. At which time, Officer B approached and kicked the gun out of Subject 1's hand. (Att. 18)

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CONCLUSION AND FINDING:

This investigation found that Officer A and Officer B's use of deadly force was in compliance with Chicago Police Department policy. 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. attempted 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."

The officers' actions met the requirements of the Department's deadly force policy. The involved officers provided separate and consistent accounts of the incident. Subject 1 exited the vehicle and without warning repeatedly discharged his weapon at the officers placing them in fear of being injured or killed. Officer A and Officer B exited their squad car and fired their weapons at the direction of Subject 1. Officer B followed after Subject 1 into an alley where the gun fire continued and where Subject 1 was fatally shot.