

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1051127 / U #12-02

INVESTIGATION

NUMBER: Log#1051127/U#12-02

INVOLVED

OFFICER: “Officer A” (Chicago Police Officer); Male/White; 36 years old;
On- Duty; In Uniform; Year of Appointment – 2006

OFFICER’S

INJURIES: None reported.

WITNESS

OFFICER: “Officer B” (Chicago Police Officer); Male/White; 44 years old;
On- Duty; In Uniform; Year of Appointment – 1996

OFFICER’S

INJURIES: None reported.

SUBJECT: “Subject 1”; Male/Hispanic; 41 years old

SUBJECT’S

INJURIES: (1) gunshot wound to chest; transported to Illinois Masonic Hospital in
critical condition.

DATE/TIME: 08 January 2012, approximately 1836 hours

LOCATION: 2XXX N. Laramie, Chicago, IL
Beat 2522

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SUMMARY OF INCIDENT:

On 08 January 2012, at approximately 1836 hours, Witness 1 called 911 to report that she and her husband, Subject 1, were involved in a domestic incident in their basement apartment at 2XXX N. Laramie. Witness 1 related that Subject 1 was intoxicated and armed with a gun. Witness 1 indicated that she took her children out of the residence and relocated to Fullerton and LeClaire. CPD Sergeant A,¹ who was working Beat 2540, arrived at the location to where Witness 1 had fled. CPD Sergeant A spoke with Witness 1 and relayed information over the radio to units that were responding to 2XXX N. Laramie. Officer A and Officer B, working Beat 2542 in uniform, arrived at 2XXX N. Laramie and exited their marked vehicle.

Officer A proceeded east in the south gangway of 2XXX N. Laramie with Officer B following. They observed a light on in the basement apartment. Officer A and Officer B proceeded down the steps to the basement door, knocked on the door and announced their office by stating, "Police, Policia, open the door!" Officer B then exited the stairwell and positioned himself on the south side of the residence near the gangway. The officers heard over the radio that Subject 1 was still present inside and was armed with a .45-caliber handgun. CPD Sergeant A advised over the radio for responding officers to set up a perimeter around the house. Officer A backed up the stairwell and positioned himself on the north side of the top of the stairwell near the wall. Officers A and B observed that the light in the basement apartment went out. A security light mounted to the exterior of the house was on along with a light near the alley.

Officer A observed the basement door open and Subject 1 walked out holding a black steel handgun in his right hand. Officer A yelled, "Police! Drop the gun!" Subject 1 failed to comply with Officer A's verbal direction and walked up the first step and raised the gun towards Officer A. Officer B did not have a good view of Subject 1 when he exited, but Officer B did observe a handgun in Subject 1's hand. Subject 1 failed to drop the handgun as directed and he raised it and pointed it at Officer A, who, in fear for his life, fired his weapon once, striking Subject 1 in the left side. Subject 1 fell face-forward onto the stairs and on top of the firearm he was holding. Officers who were positioned in the front of the residence arrived in the backyard after they heard the gunshot. The officers lifted Subject 1 from the stairway, placed him into custody and secured the firearm. The officers placed Subject 1 on a paved part of the back yard. The officers requested an ambulance, and Subject 1 was transported to Illinois Masonic Hospital in critical condition for a gunshot wound to his left side.

¹ CPD Sergeant A has been promoted to Lieutenant since the date of this incident.

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The **General Offense Case Report** and **Arrest Report** documented under **HV110046** documented that Subject 1 (AKA Different Name) was arrested on 08 January 2012, at the location of 2XXX N. Laramie for Aggravated Assault with a firearm, Aggravated Assault to a Police Officer and Unlawful Use of a Weapon by a Felon. The reports related that Subject 1 was arrested after pointing a handgun at Officer A, after Subject 1 pointed and threatened Witness 1 and (Subject 1's Daughter) with the firearm during a domestic altercation.

A **Tactical Response Report** completed by Officer A, documented that Subject 1 "did not follow verbal direction," was an "imminent threat of battery" and "used force likely to cause death or great bodily harm" when Subject 1 pointed a firearm at Officer A. Officer A responded with "member presence," "verbal commands," and the use of his "firearm." CPD Deputy Chief A, documented that, at the time of this report, Officer A's actions were in compliance with Department policy.

The **Officers Battery Report** for Officer A documented that Officer A was not injured. The report documented that Subject 1 pointed a handgun at Officer A.

The **Chicago Fire Department Ambulance Report** documented that Ambulance 7 responded to the scene and arrived at 1849 hours. CFD personnel located Subject 1 lying on his left side in the backyard of 2XXX N. Laramie. Subject 1 was conscious but refused to answer any questions. Per Chicago Police Officers on the scene, Subject 1 had been shot in his left flank. Subject 1 was transported from the scene to Illinois Masonic Hospital without further incident.

Medical Records for Subject 1 from Illinois Masonic Hospital documented that Subject 1 was admitted to the hospital on 08 January 2012 at 2132 hours. The initial treating physician was listed as Doctor A. Subject 1 was admitted for a gun shot wound (GSW) to his left flank. Subject 1 remained hospitalized for an extended period of time. The medical records provide information that detailed the extent of Subject 1's injuries and his course of treatment.

A **Canvass** was conducted on 09 January 2012 by IPRA Investigator A. The canvass failed to identify any witnesses to the incident.

Crime Scene Processing Report's documented items inventoried and photographs obtained by the Evidence Technicians at the scene and at Illinois Masonic Hospital.

Inventory Sheets documented items that were recovered from Subject 1 and evidence that was recovered on scene. Among the items listed in the inventory sheets were a .45 caliber handgun that was recovered from the stairwell area that was reported to be the firearm Subject 1 pointed at Officer A; a cartridge casing that matched the firearm Officer A was carrying was recovered from the stairwell; currency in the amount of \$311.00 which was recovered from Subject 1's person; a cell phone and a flashlight were recovered from the back yard near where Subject 1 was placed after the shooting; and live cartridges which were recovered from the magazine of Subject 1's .45 caliber handgun.

Evidence Technician Photographs documented pictures of the scene where the shooting occurred. The photographs documented a black steel handgun with a brown grip on the ground

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near the basement entrance. The handgun's hammer was in the cocked position and a loaded magazine was present in the handgun.

Illinois State Police Forensic Science Laboratory Reports documented that Officer A's firearm was tested and found to be in good working condition. It was determined that the bullet fired at the scene of the incident was fired from Officer A's firearm.

There was no **In-Car Video** obtained relevant to this investigation.

A search of **Police Observation Devices (PODS)** in the area of the incident was met with negative results.

The related **OEMC Event Queries** documented that, on 08 January 2012, at approximately 1836 hours, 911 received a "person with a gun" call at the location of 2XXX N. Laramie Avenue from Witness 1. Officer B provided a description of Subject 1 and instructions for the officers on where to enter the residence. Officer B related to the dispatcher that Subject 1 was waving a black gun around. Officer B gathered her children and relocated away from the residence in her vehicle to the intersection of LeClaire and Fullerton Avenues. Officer B stopped her vehicle on the side of the road and called 911.

Numerous 025th District Police Units responded to the scene. At 1842 hours, Beat 2542 reported shots fired by the police and that the offender was down. It was reported that the offender was shot in the left breast. The Event Query documented that Officer A, was the officer who discharged his firearm. The offender was transported to Illinois Masonic Hospital by Ambulance #7. Units secured the scene and transported witnesses to the Detective Division. The Event Query documented that notifications were made and that Detectives arrived on-scene at 1856 hours.

A transcript and transmission of the **OEMC 911 Call** (Event #1200812746) placed by Witness 1 documented that her husband, Subject 1 "pulled" a black gun on her and her children. Witness 1 related that she and her kids were able to flee the residence and that Subject 1 still had the firearm at the residence when they fled. Witness 1 related that Subject 1 appeared intoxicated and had never threatened her with a firearm in the past. The call was ended when a police unit arrived at the location to where Witness 1 and her children had fled to.

The **Detectives Supplementary Report** documented that Subject 1 was charged with Aggravated Assault to a Police Officer and Aggravated Assault with a Firearm for an incident that occurred on 08 January 2012, at approximately 1841 hours, at the location of 2XXX N. Laramie Avenue, Chicago, IL 60639. The victims were listed as Officer A, (Subject 1's daughter) and Witness 1 (Subject 1's wife). The report documented that Subject 1 was a convicted felon and had been charged with 10 felonies and 13 misdemeanors in the past, with 4 convictions. The Report documented that Subject 1 was armed with a black, KBI, .45 Caliber, Semi Automatic Handgun at the time of the incident.

The Detective Supplementary Report documented that Subject 1 pointed a loaded handgun in the direction of Chicago Police Officer A following a domestic disturbance in an attempt to defeat arrest. The report listed the evidence gathered from the scene and the evidence photographs taken. Area North Detectives investigated the incident and conducted a canvass of the area.

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Area North Detectives did not discover any relevant witnesses to the shooting during their canvass. The narrative of the Detective Supplementary Report related in essence the same information provided in the summary of incident.

A letter written to IPRA from **Subject 1** documented that on, 08 January 2012, between the hours of 6:00-7:00 p.m., at the address of 2XXX N. Laramie, Officer A or Officer B shot him. Subject 1 related that he awoke at Illinois Masonic Hospital after surgery. Subject 1 wrote that CPD Detective 1, told the Grand Jury that Officer A and Officer B were responding to a call for a man with a gun. Subject 1 indicated that his wife called 911 for a domestic even though she was not home. Subject 1 related in the letter that CPD Detective 1 stated that Subject 1 pointed a gun at the officers. Subject 1 believes that CPD Detective 1 stated that to “cover up” for the officers involved. Subject 1 related that the angle he was shot at did not coincide with what was claimed by the officers and that the officers used excessive force. Subject 1 indicated that the officers took approximately \$300.00 from him and failed to return it².

In an audio recorded statement to IPRA, Witness 1 related that on the date of the incident she was shopping at Target when she received a telephone call from her oldest daughter, (Subject 1’s Eldest Daughter). (Subject 1’s Eldest Daughter) related to her Mother, Witness 1 that her father, Subject 1, had a gun and was “clicking” it. Witness 1 left Target and drove home. Witness 1 gathered her three children and entered the kitchen to put away the groceries. Witness 1 related that her husband, Subject 1, entered the kitchen from the living room with a gun in his hand. Witness 1 indicated that her youngest daughter, (Subject 1’s Youngest Daughter), ran and hid in the bathroom. Witness 1 observed Subject 1 place the gun in his waistband and walk back towards the living room. Witness 1 instructed (Subject 1’s Eldest Daughter) to gather the children and related that they were going to exit the residence. Witness 1 related that Subject 1 confronted her and (Subject 1’s Youngest Daughter) outside and attempted to get Witness 1 to leave without (Subject 1’s Youngest Daughter). Witness 1 refused to leave without her daughter. Witness 1 continuously attempted to calm Subject 1 down.

Witness 1 related that Subject 1 re-entered the residence and she was able to escape from the area with her children. Witness 1 drove to LeClaire and Fullerton Avenues and called 911. Witness 1 related to the 911 operator that her husband, Subject 1, had a gun and was in the basement apartment. Witness 1 stated that Subject 1 had consumed a bottle of Chivas Whiskey. Witness 1 indicated that a police officer arrived at her location and placed her inside his vehicle. Witness 1 stated that the police officer drove back towards her residence and she heard over the police radio that there were “shots” and to send an ambulance. Witness 1 stated that the police officer made her stay at his vehicle and she didn’t observe the shooting. Witness 1 related that her children all remained at LeClaire and Fullerton and were there when the shooting occurred. Witness 1 indicated that Subject 1’s actions were out of character. Witness 1 stated that the two of them had domestic issues in the past and that Subject 1 has hit her, but she had never seen Subject 1 with a gun prior to this incident.

In an audio recorded statement to IPRA, **Witness Officer B**, related that on the date of the incident, he was working in full uniform in Beat 2542, with his partner, Officer A. Officer B stated that he and his partner monitored a radio call over Zone 12 for a man with a gun call, domestic related at 2XXX N. Laramie. Officer B related that they arrived on-scene and parked

² The allegations made by Subject 1 in his letter to IPRA are addressed in the conclusion section of this report.

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their squad car along the street in front of the residence. Officer B recalled hearing over the radio to proceed to the rear of the residence and to the basement. Officer B indicated that he and Officer A proceeded down the gangway to the rear of the residence. Officer B stated that he and Officer A knocked on the basement door and announced their office. Officer B related that they were receiving updates over the radio and that the subject, now known to be Subject 1 was still inside and that he was armed with a gun. Officer B indicated that they received no response from anyone at the back door. Officer B took a position near the gangway where he could observe his partner and the side of the residence. Officer B indicated that Officer A obtained a position near the wall of the staircase leading down to the basement doorway. Officer B observed Officer C and Officer D start to proceed down the gangway. Officer B instructed the two officers to return to the front and cover the front of the residence.

Moments later, Officer B observed the basement door open and then heard Officer A yell, "Put the gun down, put the gun down, Police drop the gun!" Officer B observed Subject 1 approach the stairway with a gun in his right hand. Officer B stated that as he began to move towards Officer A, Officer A fired one round and Officer B observed Subject 1 fall on the stairway. Officer B holstered his firearm and observed Officer C and Officer D arrive in the backyard. Officer B stated that Subject 1 had fallen on top of the firearm he was holding. Officer B related that they all grabbed Subject 1 and secured the area. Officer B stated that Officer A and Officer C handcuffed Subject 1 and pulled him up the stairs into the backyard. Officer B related that he called for an ambulance over the radio.

Officer B did not observe any witnesses in the area that observed what occurred. Officer B related that he did not fire his weapon due to Officer A's location and the fact Officer A stopped the threat prior to him being able to discharge his firearm. Officer B did not believe he had contact with Subject 1 prior to this incident.

In an audio recorded statement to IPRA, **Involved Officer A**, related that, on the date of the incident, he was working in full uniform, in Beat 2542, with his partner, Officer B, from 1730-0230 hours. Officer A indicated that he and Officer B monitored a radio call over Zone 12 for a domestic battery/man with a gun. Officer A stated that he and Officer B drove towards the call and then arrived on-scene. Officer A exited the vehicle along with Officer B and learned over the radio that the offender was in the basement apartment at the rear of the building.

Officer A and Officer B proceeded east through the gangway to the rear of the residence. Officer A stated that he arrived at the back basement door, knocked and announced his office in English and Spanish and received no response. Officer A indicated that they observed a light on inside the apartment but observed no movement. Officer A heard over the radio that the 911 caller related that the subject did have a gun and was still present inside the apartment. Officer A related that he took cover near a wall along the stairwell and Officer B had moved towards the gangway to see if he could observe anything happening inside through the window.

Officer A stated that he then observed the basement door open and a subject, now known to be Subject 1, walk out with a black semi-automatic handgun in his right hand. Officer A indicated that the lighting in the area illuminated Subject 1 as he exited the apartment. Officer A related that he gave Subject 1 numerous verbal directions to drop the weapon; however, Subject 1 refused to comply with the directions. Officer A indicated that Subject 1 raised his firearm in his direction. Officer A instructed Subject 1 to drop the weapon and then discharged his firearm

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once in the direction of Subject 1 after he failed to comply. Officer A stated that Subject 1 was shot in the left side and fell to the ground. Officer A related that Officer C and Officer D came from the front of the residence to his location. Officer A and Officer C dragged Subject 1 up the stairwell and onto the cement in the backyard. Officer A indicated that Officers C and D were in the front of the residence at the time of the shooting and did not observe what transpired. Officer A stated that Officer B called over the radio for an ambulance and Officer D secured Subject 1's firearm. Officer A related that an ambulance arrived approximately five minutes later and transported Subject 1 to the hospital. Officer A did not recall ever being at the residence or having contact with Subject 1 prior to this incident.

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CONCLUSION AND FINDING:

This investigation found that the use of deadly force by the involved Chicago Police Officers 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."

Subject 1 was intoxicated and involved in a domestic incident with his wife and children. Subject 1's wife and children fled the residence and called 911 and reported that Subject 1 had a firearm and threatened his family with it. When officers arrived on-scene, Subject 1 refused to come to the door and comply with Officer A and Officer B.

Subject 1 eventually opened the rear basement door and exited with a black steel semi-automatic handgun in his right hand. Officer A gave Subject 1 several verbal commands to drop the firearm. Subject 1 continued towards Officer A with the firearm in his hand. Subject 1 then raised the firearm towards Officer A. In fear for his life, Officer A discharged his firearm one time, striking Subject 1 in the left side. Subject 1 was placed into custody and provided medical treatment. A black steel .45 caliber semi-automatic handgun was recovered near the back door.

Subject 1 related in a letter to IPRA that officers responded to his residence for a "domestic" and not for a man with a gun call. OEMC Event Queries related that officers did have information prior to arriving that Subject 1 was armed with a firearm. Subject 1 indicated that he believed officers used excessive force during the incident; however a black steel semi-automatic handgun was recovered from the location where Subject 1 was shot. The firearm was the same firearm described by Subject 1's wife. Further, Subject 1 accused officers of taking approximately \$300.00 from his person and not returning it. Inventory #12509694 documented that \$311.00 was recovered from Subject 1 and that the currency was available to be returned to its owner upon request. Subject 1's allegations are unfounded and will not be addressed in this investigation.

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Subject 1's actions and the information received prior to the officers contact gave the officers reasonable belief that Subject 1 was armed. Subject 1 failed to comply with Officer A's verbal commands. Officer A was in accordance with the statute "to prevent death or great bodily harm to a sworn member or to another person" because he reasonably believed his life was in danger when Subject 1 pointed a black semi-automatic firearm in his direction. The reports document that there was a high likelihood that Officer A was in danger of "great bodily harm" described in the statute if he did not stop the threat on his life by discharging his firearm.