

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1051844/U # 12-03

INVESTIGATION

NUMBER: Log # 1051844/U# 12-03

INVOLVED

OFFICER: "Officer A" (Chicago Police Officer); Male/Black; 47 years old;
Off Duty; In Uniform; Year of Appointment – 1994

OFFICER'S

INJURIES: Bruised left thigh; cuts on the right hand.

SUBJECT: "Subject 1"; Male/Black; 47 years old

SUBJECT

INJURIES: Gunshot wound(s); dead on arrival at Christ Hospital.

SUBJECT'S

WEAPON: Automobile, 1996 Ford Econoline E-450 Van.

INITIAL

INCIDENT: Burglary

DATE/TIME

OF INCIDENT: 11 February 2012, approximately 0707 hours

LOCATION: XXXX S. Chappel (in alley); Beat 414

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Summary of Incident:

On 11 Feb 12, at approximately 0707 hours, 9th District Officer A, was off-duty and at his home at XXXX S. Chappel along with his wife, Witness 1. Witness 1 was on the second floor of their residence while Officer A was on the first floor when Witness 1 heard a noise at the rear of their property (Note: at some point during the incident, a burglar alarm that is connected to the officer's garage went off). Witness 1 looked out to the rear of the house and saw two black males dressed in black clothing. Witness 1 told Officer A that someone was in the alley behind the garage. Witness 1 went outside to the mouth of the alley but did not observe anything unusual. Officer A put on his uniform, took his handgun and his star, and he and his wife entered their Honda Odyssey that was parked on the street in front of their residence. They then drove past the mouth of the alley and did not see anything unusual. They then drove around the block to 80th Street and drove north into their alley.

As Officer A entered the alley, he observed a white van ram his garage overhead door. Witness 1 also observed the van ram the garage. The van backed up and struck the front of Officer A's Honda Odyssey mini-van. The van also struck a fence and a pole behind Officer A's house. Officer A exited his Honda Odyssey and went to the driver's side of the van. Officer A identified himself as a police officer while holding his star in his left hand. Officer A told the driver¹ that he was under arrest for the damage to the garage. The van moved forward and struck Officer A, causing him to fall to the ground. Witness 1, who remained in their Honda Odyssey, yelled for Officer A to get out of the way of the van. Witness 1 heard two gunshots, exited the Honda Odyssey, and saw Officer A at the driver's side window of the van. Witness 1 saw a black male subject exit the passenger side of the van and run south in the alley. Witness 1 returned to the residence and called 911. Officer A's left pants leg and coat had marks on them, and he suffered bruises as a result of being struck. Chicago Fire Department personnel transported Officer A to the University of Chicago Hospital for treatment. Subject 1 was dead on arrival at the hospital. A short time later, officers apprehended a black male, who officers later identified as Subject 2, a possible co-conspirator with Subject 1. Area Central personnel attempted unsuccessfully to interview Subject 2 before releasing him without charges.

¹ Later identified as Subject 1.

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Investigation:

In a **digitally recorded interview** provided at IPRA on 13 February 2012, at 0759 hours, **Officer A** stated that on date of the incident he was on the first floor of his two-story residence, near the rear of the residence, and his wife, Witness 1, was upstairs. Officer A heard a loud noise coming from the alley behind his residence and went to the kitchen window to investigate, but did not observe any activity. However, the house alarm was activated,² and Officer A used a remote control to open the inside garage door, which is located in the rear yard. He then observed the outside overhead door off of its track and further observed two unknown black males, dressed in all black clothing, walking in the area of his rear gate. Around the same time, Witness 1, who was on the second floor of the residence, informed Officer A that two men were trying to get into their garage.

Officer A put on his uniform shirt and pants, a non-police black jacket and retrieved his CPD badge and I.D. card, collapsible baton, handcuffs and his duty weapon on his person, as he exited his residence to investigate. Officer A and his wife exited the front door and got into their vehicle,³ which was parked in front of the residence. Officer A entered the driver's seat and Witness 1 entered the front passenger seat. They drove to, and entered, the alley behind their residence. As they approached their garage, Officer A did not see the two unknown black males in the area, but he did observe damage to his garage door⁴. They continued to drive through the alley and continued driving around the area, but still did not see the two unknown black males. They drove back to the alley behind their residence again and as they entered the alley, Officer A observed a white van⁵ traveling in front of them. The white van stopped at their residence and pulled up at an angle to their garage door with the engine running. Officer A stopped behind the white van, exited his Honda Odyssey, and with his badge and I.D. card in his left hand, approached the driver's side of the Ford van, whose window was rolled up. Officer A positioned himself at the left front fender, looked at Subject 1 and recognized him as the black male he saw earlier standing near their gate.⁶ Officer A asked Subject 1 what he was doing and announced his office, stating, "You tryin' to break into my garage. You're under arrest."⁷

Subject 1 immediately put the van in reverse and struck Officer A on the left thigh causing him to fall to the ground. Officer A came to his feet and drew his weapon as the van continued in reverse and struck the couple's Honda Odyssey, where Witness 1 remained. Officer A, standing on the driver's side of the white van again announced his office, ordering Subject 1 out of the vehicle and informing him that he was under arrest. The white van then moved forward towards Officer A and, in fear for his life because the driver had already struck him once, raised his weapon and discharged two rounds through

² The garage doors are connected to the house alarm.

³ Silver Honda Odyssey mini van

⁴ Garage door had a dent and was off track

⁵ Described a Ford Econo Van

⁶ Now identified as the subject, Subject 1

⁷ Att #36, Page 28, line 28, 29

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the front driver's side window at Subject 1. The van struck a pole and stopped, but the engine continued to idle.

Officer A told Subject 1, "Gimme you know, show me your hands, gimme your hands."⁸ However, Subject 1 continued to attempt to drive the van. Officer A secured his weapon, reached inside the driver's side window, and attempted to handcuff Subject 1. Subject 1 became combative and the van moved forward slightly. Officer A was able to handcuff Subject 1's left arm to the steering wheel while Subject 1 continued to fight with his right arm, which was not handcuffed. Officer A reached inside the van and grabbed the keys from the ignition and turned the engine off. After a few minutes, Subject 1 became non-combative and unresponsive.

Officer A never noticed anyone in the passenger seat of the van, nor did he see anyone exit the van, but after being informed by Witness 1 of a second individual, he searched the immediate area without success. Officer A instructed Witness 1 to go into the residence and call the police, who arrived a short time later.

Officer A stated that he attempted to get out of the path of the van, but his neighbor's garage and garbage cans were behind him and he had no room to move further out of the path of the van. Officer A related that he did not hear Subject 1 say anything during the incident and had no past interactions with Subject 1. A short time after the incident officers returned to the scene with Subject 2 and Officer A identified Subject 2 as the second black male outside his gate.

Officer A sustained injuries to his left thigh and right hand. Chicago Fire Department personnel transported Officer A to University of Chicago Hospital. (Att #36)

In a **digitally recorded interview** given to IPRA on 16 February 2012, at 206 South Jefferson, the law offices of Attorney Sharon Walsh, the witness, **Witness 1**, stated that on 11 February 2012, between the hours of 0645 and 0700, she was on the second floor of her residence when she heard the house alarm go off. Witness 1 looked out of a second story rear window of the residence and noticed that the garage door that faces the residence appeared to be open. Witness 1 also observed two black males wearing dark clothes in the alley behind her residence. Witness 1 ran out of her residence through the front door, turned north to the mouth of the alley at Chappel, looked into the alley, and, not seeing anything unusual, returned to her residence. Officer A and Witness 1 then exited their residence and Officer A entered the drivers' side of their Honda Odyssey, which was parked in front of their residence, and Witness 1 entered the front passenger side. They drove north and into the alley. As they drove into the alley, they approached their garage and Witness 1 observed that the overhead door was off its track and dented. Witness 1 did not observe anyone in the garage.

They exited the alley and drove to 80th Street and Merrill, and then turned left and drove west bound on 79th Street to Jeffrey Boulevard, and returned to the alley to check

⁸ Att #36, page 39, line 15-16

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on the damage to the garage. As they entered the alley Witness 1 observed a van⁹ traveling north in front of them toward her garage. Witness 1 then observed the driver of the van slow down, angle the van towards her garage door and strike the garage. Officer A stopped his Honda Odyssey south of the garage. The van appeared to strike the garage door a second time. Officer A exited his vehicle with his badge in one of hands, approached the driver's side of the van, "shouted"¹⁰ his office and stated, "You're under arrest. Get out of the van."¹¹ Officer A did not have his weapon in his hands. The van moved in reverse striking the front driver's side of the Bond's Honda Odyssey. The van then moved forward and Witness 1 observed Officer A fall to the ground, and she lost sight of him. Around this time, Witness 1 heard gunshots.¹² Additionally, the passenger side door of the van opened and a black male, whom Witness 1 observed earlier in the alley, exited and ran south out of the alley.¹³ Witness 1 then ran into her residence, and used her mobile telephone contacted 911 and reported the incident. Witness 1 provided her name, address, and identified Officer A as a police officer. Witness 1 ran back into the alley and observed a police vehicle traveling north into the alley and stopped behind the Bond's mini van. Witness 1 then returned to her residence and did not witness any further activity in the alley.

Witness 1 stated that she did not hear or observe any reaction of anyone in the van to Officer A's commands nor did she observe Officer A draw and discharge his weapon during the incident. Witness 1 also related that west of where Officer A stood there was a brick garage and a line of garage cans leaving no room for Officer A to move when the van moved forward and backwards. Witness 1 stated that after the incident, she observed swelling and bruising to Officer A's right hand. Officer A informed Witness 1 that he was experiencing back pain and pain to his left knee, thigh and leg from the van striking him.

IPRA Investigator 1 attempted to obtain a statement from **Subject 2** at Area Central Police Headquarters, but Subject 2 related that he was legally blind and did not witness the shooting. Further attempts to obtain a statement from Subject 2 were unsuccessful. (Att #26, 40)

OEMC transmissions document a call from a male who identified himself as Witness 2. Witness 2 reported seeing the top of a white van in an alley and hearing loud noises described as breaking glass in the alley between Jeffrey Boulevard and Chappel.

A female caller now known as Witness 1 called 911 and requested police assistance at XXXX S. Chappel in the alley. Witness 1 reported that her husband was a police officer and that he was armed. Witness 1 reported that someone broke into their

⁹ Witness 1 thought the van was cream in color.

¹⁰ Att #37, page 20, line 7.

¹¹ Att #37, page 19, lines 23.

¹² Att #37 page 32, line 31, page 33 1-2. Witness 1 was unable to recall exactly at what point she heard the two gunshots and unable to recall if they were in succession.

¹³ Witness 1 identified Subject 2 as the black male that she observed exit the van from a Chicago Police Department Booking photograph.

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garage and wrecked their vehicle. Witness 1 also informed the operator that the person was still on the scene.

A female caller who asked to remain anonymous reported that she observed a white van in an alley on 79th between Chappel and Jeffrey crashed into a neighbor's garage; the white van tried to back up and it crashed into the tan colored van behind him. A black male, wearing a black skullcap, light blue shirt, dark pants and a black jacket, appeared to be standing outside a white van on the driver's side yelling and screaming at the driver.¹⁴ Officer A then shot into the driver's side window. The caller reported that there was a female sitting in a tan colored van behind the white van.¹⁵ Officer A began to walk back and forth and screaming with a silver gun in his hands; Officer A then ran down the alley toward Walgreens with a silver gun in his hands. Witness 1, who was sitting in the second van, exited and began running after Officer A; Witness 1 returned and walked back to the van; Officer A returned and he and Witness 1 looked into the van and Witness 1 began speaking into a mobile telephone; Officer A continued to walk around the van; there was no movement inside the van. Officers arrived on the scene, approached Officer A, and began speaking with him; the caller then identified Officer A as a neighbor who is a Chicago Police officer.

There were multiple units assigned to the 004th District Station in the area responding to XXXX S. Chappel. There were numerous calls for supervisors to the location of the incident. Several beats assigned to the 004th District Station put out a request to look for a possible second offender in the area. Bt. 406 radioed that a positive identification was made of the second offender. (Att #28, 47)

Evidence Technician photographs depict images of the location of the incident, the white Ford van associated with Subject 1, damage to garage belonging to Officer A and images of Officer A at the University of Chicago Hospital. (Att #15)

Chicago Fire Department Ambulance sheets document that Officer A complained of pain to the upper left leg, including knee, thigh and back pain. Also documented is a small laceration to his right hand. (Att #50)

Chicago Fire Department Ambulance sheets document that paramedics found Subject 1 seated in a van and unresponsive. Subject 1 appeared to have sustained a gunshot wound to the upper right chest area, and what appeared to an entrance and exit wound to the left forearm. (Att #49)

Postmortem report on Subject 1 completed and submitted by the medical examiner of Cook County, dated 12 February 2012, documents the first gunshot wound was to the chest. The entrance wound perforated the skin and muscle and fractured the right clavicle and soft tissue of the right upper chest wall. The wound course was from front to back and slightly downward.

¹⁴ Now identified as Officer A.

¹⁵ Now identified as Witness 1.

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The second gunshot wound was located on the posterolateral aspect of the left forearm. The wound course was from back to front left to right. (Att #41)

Toxicological report on Subject 1, completed and submitted by the medical examiner of Cook County dated 14 March 2012, documents that Subject 1 tested positive for opiates and narcotics in his system. (Att #41)

Medical Examiners photographs taken of Subject 1 depict the body of Subject 1 and images of the sustained wounds (Att #26)

General Case and Supplemental reports completed and submitted document that officers responded to a call of a person shot at XXXX S. Chappel. Officers arrived on the scene where the victim, a Chicago Police Officer, Officer A, shot the offender, Subject 1. (Att #46)

Tactical Response Report completed and submitted document that Subject 1 failed to follow verbal commands given by Officer A and attempted to inflict great bodily harm to Officer A and his wife by ramming his vehicle into their vehicle and attempting to run over Officer A. Officer A, being in fear for his safety, and that of his wife, discharged his weapon at Subject 1 striking him in the chest. (Att #7)

The **Officer's Battery Report** documented that Officer A, while off-duty, sustained non-fatal injuries after being struck by a vehicle. (Att# 8)

Chicago Police Department Breathalyzer report document that CPD Sergeant 1, assigned to the Internal Affairs Division of the Chicago Police Department, arrived at the University of Chicago Hospital at 1015 hours but was unable to begin the twenty minute observation period with Officer A until 1450 hours because doctors were treating Officer A for injuries.

The Breath test was administered at 1521 hours and BAC was .000. The test was completed at 1545 hours. (Att #35)

Crime Screen Processing Report documented that Forensic Investigator 1, and Evidence Technician 1, videotaped and photographed the scene at XXXX S. Chappel and recovered physical evidence, which was processed and inventoried.

Forensic Investigator 1 recovered Officer A's weapon from CPD Sergeant 2.

Evidence Technician 1 relocated to Christ Hospital and photographed and finger printed Subject 1 for identification.

On 11 February 2012, at approximately 2100 hours, Evidence Technician 2, arrived at Area Two Detective Division and took line-up photographs of several persons, including the possible witness, Subject 2. (Att #14)

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Illinois State Police (ISP) tests document that the weapon associated with Officer A, a Smith and Wesson, Model 5943, 9mm Luger semi-automatic was examined and found to be in good firing condition. The fired bullet exhibit displayed five lands and grooves with a right hand twist. (Att #43)

Special Administrator Flora Suttle for the Estate of Subject 1 filed civil Suit # 13-cv-1032 on 08 February 2013. The suit alleges that Officer A used unreasonable force against Subject 1 and shot him multiple times with a firearm without lawful cause or justification causing Subject 1 to die as a result of gunshot wounds inflicted by Officer A. (Att #44)

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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 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 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 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 and his wife, Witness 1, provided consistent accounts of the incident. Witness 1 observed two black males in dark clothing at the rear of her residence. She also noticed that the door to her garage was ajar. Officer A stated that, fearing that he would be acting in a police capacity, he put on his uniform shirt and pants, a non-police jacket; and carried on his person his CPD badge and ID, collapsible baton, handcuffs and duty firearm.

Officer A and his wife drove to the rear of their residence to investigate the damage done to the garage. They observed damage to the garage door, but did not observe anyone in the garage. They drove around the area in an attempt to locate the two black males and observed a white van in the alley behind their residence. They observed the white van strike the garage door to their residence. Officer A exited his vehicle, announced his office, and ordered the driver out of the vehicle.

The driver of the van placed the vehicle in reverse, striking Officer A on the leg and causing him to fall to the ground; the van then struck the couple's vehicle, which still contained Witness 1. Officer A drew his weapon and ordered the van to stop, but the van then moved toward Officer A. Officer A, in fear for his safety, and the safety of his wife because the driver of van had already struck him once, and the van then struck the vehicle that his wife occupied, raised his weapon, aimed at the driver and discharged two rounds through the front driver's side window to stop the threat.