

**INDEPENDENT POLICE REVIEW AUTHORITY**

**Log #1054291, U #12-16**

**INVESTIGATION**

**NUMBER:** Log #1054291, U #12-16

**OFFICER**

**INVOLVED:** “Officer A” (Chicago Police Officer); Male/Spanish; 35 years old;  
On- Duty; Plain clothes; Year of Appointment – 2004

**OFFICER**

**INJURIES:** None.

**SUBJECT:** “Subject 1”; Male/Black; 22 years old

**SUBJECT**

**INJURIES:** Gunshot wound to hand.

**DATE/TIME**

**OF INCIDENT:** 24 May 2012, 1016 hours.

**LOCATION:**

9349 S. Lyon Street (vacant lot) and 718 E. 93<sup>rd</sup> Street.

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### **SUMMARY OF INCIDENT:**

On 24 May 2012, Officer A and Officer B were working Beat 606H, 2<sup>nd</sup> watch, in a marked vehicle. They were notified by dispatch, via OEMC, that there was a citizen call of two subjects (now identified as Subject 1 and Subject 2) walking on the train tracks with a firearm in the vicinity of 9349 S. Lyon Avenue. Upon arrival, Officer A and Officer B met with Officer C, who notified them that he did not observe anything and was going to continue looking along the tracks on foot. Officer A and Officer B remained in their vehicle driving throughout the vicinity in search for the two subjects. Officer A and Officer B observed Subject 2 jump over a fence, look toward them, then reach over the fence and grab a black assault rifle that was being handed to him by the second subject, Subject 1. Subject 1 then jumped over the fence and both subjects ran northbound through two vacant lots. Officer A and Officer B gave chase in their vehicle and stopped where both subjects had jumped over the fence. Officer A exited the vehicle, drew his weapon and told the subjects to, "Freeze and drop it." Subject 2 turned around and pointed the assault rifle at the officers while Subject 1 was standing nearby. In fear for his life, and that of his partner, Officer A fired one round toward Subject 2. Both subjects turned around and continued to run northbound. Subject 2 turned toward the officers a second time, and pointed the assault rifle in their direction. Officer A fired a second round. Officer A chased both subjects on foot while Officer B jumped back into the vehicle and began driving in the direction of the foot pursuit. Both subjects approached a gangway at 710 East 93<sup>rd</sup> Street where Officer A lost sight of them. Officer A and Officer B set-up a perimeter on both ends of the alley and Officer A observed Subject 1 running away southbound through the gangway. Officer A did not give chase because he was unaware of the location of Subject 2 with the rifle. A short time later, other officers arrived at the scene, searched the area and located Subject 2 hiding under a porch. Subject 2 was not injured when taken into custody, and the Romarm Sa/Cugir, AK-47 rifle and Springfield, XP9 handgun nearby.

Subject 1 was apprehended the next day, 25 May 2012, after an investigative alert with probable cause to arrest was issued. Subject 1 was placed into custody while walking down a sidewalk near 2403 S. Crescent Drive in Hazel Crest, IL. It was learned at that time that Subject 1 was shot in the hand by Officer A as a result of the incident the prior day. Subject 1 had sought treatment at St. Mary hospital in Hammond, Indiana for the gunshot wound to his hand under an alias.

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### Investigation:

The related **Arrest and Case Reports** for **Subject 2, CB #18413876, RD #HV301086** is consistent with the Summary of Incident. Subject 2 was charged with 2 counts of Aggravated Assault to an Officer with a firearm and 2 counts of Unlawful Use of a Weapon (UW). Furthermore, during the apprehension, Subject 2 stated to the officers, "Y'all found my guns. Just take me to the station and do you. I hate the motha fuckin' police. They shot me before."

The related **Arrest Report** for **Subject 1, CB #18415103**, documents that he was arrested on 25 May 2012, while walking down a sidewalk near 2403 S. Crescent Drive in Hazel Crest, IL. An investigative alert had been issued with probable cause to arrest. Subject 1 was charged with Possession of Cannabis and Unlawful Use of a Weapon.

The **Inventory Sheets** document the recovery of one Romarm Sa/Cugir, AK-47 rifle, serial #CV292973 with 29 live rounds; and one Springfield, XP9, 9mm handgun with 13 live rounds.

During an **audio recorded statement** on 25 May 2012, at 2240 hours, **Subject 2** stated that he was running from the police as they were chasing him through a vacant lot. Subject 2 stated that there was an unknown black male running alongside of him. Subject 2 refused to answer if he was carrying anything with him at the time of the incident as he stated that he did not want to incriminate himself. Subject 2 stated that as the police vehicle chased him and the unknown black male, a police officer fired his weapon toward them. Subject 2 indicated that the other male was struck by the gunfire, but was not apprehended.

Attempts were made to interview **Subject 1**, however he refused to provide a statement.

A **canvass** conducted by IPRA resulted in no additional witnesses.

The **Chicago Police Department Event Query** documents CPD transmissions and 911 calls that are consistent with the summary of incident.

The **Office of Emergency Management and Communications (OEMC) 911 transmissions** contain information that is consistent with the Event Query and Summary of Incident.

The Chicago Police Department **Crime Scene Processing Reports** document that units from the crime lab processed the scene and recovered physical evidence, took photographs and video-taped.

**Evidence Technician photographs**, taken on 24 May 2012, depicts the scene and recovered evidence to include clothing, blood stains, an automatic pistol and a rifle.

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The **Illinois State Police Laboratory Report**, Case #C12-024598, documents that the assault rifle, and its magazine, by Subject 2 had no indications of blood.

**Medical Records** requests made to St. Margaret Hospital were met with negative results for Subject 1. There were no medical records found because Subject 1 provided an alias and did not cooperate with the investigation, therefore, the reporting investigator had no way of knowing the alias name to subpoena the records.

Video footage from **Police Observation Device (POD) 168**, at 9401 S. Burnside Avenue, depicts a wide range view of a four way intersection. The POD camera is continuously rotating clockwise. At approximately 09:56:35 hours the video footage depicts from a distance two individuals, who appeared to be black males, with one wearing a red t-shirt and the other a white t-shirt. After a few minutes neither individual was in view. Throughout the remainder of the video there are marked police vehicles patrolling the area and normal traffic.

The **Tactical Response Report (TRR)** of Officer A documents that Subject 2 did not follow verbal direction, was an active resister in that he fled, posed an imminent threat of battery and was an assailant with deadly force in that he pointed a firearm in the direction of Officer A. Officer A responded with his presence, verbal commands and discharging his firearm twice. Watch Commander A concluded that Officer A's actions were in compliance with Department procedures and directives.

The **Tactical Response Report (TRR)** of Officer B documents that Subject 2 did not follow verbal direction, was an active resister in that he fled, posed an imminent threat of battery and was an assailant with deadly force in that he pointed a firearm in the direction of Officer B. Officer B responded with his presence and verbal commands. Watch Commander A concluded that Officer B was the victim of an aggravated assault and that Officer B did not use force during this incident.

During an **audio recorded statement** on 30 May 2012, **Officer B**, corroborated the same details of events as described in the Summary of Incident. Officer B stated that he observed Subject 2 jump over a fence, look back at the top of the fence where he was being handed an assault rifle by Subject 1, who also jumped over the fence, and they both began to flee the scene. Subject 2 then pointed the rifle at Officer B and Officer A. At that time, Officer B observed that Officer A had jumped out of the police vehicle and yelled, "Freeze, drop it," before discharging one round from his firearm. He and Officer A chased both subjects as they continued to run. Subject 2 pointed the rifle at Officer B and Officer A a second time. Officer A yelled out a warning and discharged a second round. Both subjects continued to run. Subject 2 was later located hiding under a porch. Both the rifle and the handgun were recovered nearby.

During an **audio recorded statement** on 30 May 2012, at 1730 hours, **Officer A**, corroborated the same details of events as described in the Summary of Incident. Officer A stated that as he observed Subject 1 hand over an assault rifle to Subject 2 prior to them fleeing the scene. Officer A chased Subject 1 and Subject 2 and announced verbal commands in which they did not comply. Subject 2 was running with the rifle in his

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possession and he pointed it towards Officer A and Officer B on two separate occasions while being chased. Officer A discharged his weapon one time after each time Subject 2 pointed the assault rifle towards them. Officer A discharged his weapon in the direction of Subject 2 as he was in fear for his, and Officer B, lives. After losing sight of Subject 1 and Subject 2, Officer A went to the alley at 93<sup>rd</sup> Street and Langley where he and Officer B set-up a perimeter. Officer A walked through the alley and as he walked past 710 E. 93<sup>rd</sup> Street, he observed Subject 1 in the gangway. Subject 1 ran southbound and Officer A did not give chase because he was unaware of the location of Subject 2 with the rifle. After other officers arrived on scene to assist, they found Subject 2 hiding under a porch and placed him into custody. The assault rifle and handgun were recovered nearby.

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### **CONCLUSION AND FINDING:**

This investigation found that the use of deadly force by Officer A was 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."

The actions of Officer A were in accordance with both conditions of CPD's deadly force policy. Officer A and Officer B responded to the scene where Subject 1 and Subject 2 were walking along train tracks in possession of an assault rifle. Both subjects fled from scene upon observing Officer A and Officer B. Officer A began a foot pursuit, and verbally commanded Subject 1 and Subject 2 to stop and drop the weapon. Both subjects failed to comply. Subject 2 pointed an assault rifle at Officer A and Officer B on at least two occasions. Officer A fired one round from his firearm after each time the assault rifle was pointed at them. Officer A was in fear for his life and that of his partner. Officer A was justified in his use of deadly force to protect himself and Officer B.