

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1056697 / U #12-26

INVESTIGATION

NUMBER: U# 12-26, Log #1056697

INVOLVED

OFFICER: “Officer A” (Chicago Police Officer); Male/Black; 35 years old;
On-duty; Civilian Dress; Year of Appointment – 2007

OFFICER’S

INJURIES: Gunshot wound below the left knee. Treated at Christ Hospital; in stable condition following the shooting.

SUBJECT: “Subject 1”; Male/Black; 15 years old

SUBJECT’S

INJURIES: Two gunshot wounds: one to right foot and a gunshot wound to the abdomen; treated at Christ Hospital; in good condition.

DATE/ TIME/

LOCATION: 28 August 2012, 2007 Hours, 1313 W. 112th Street, Beat #2234

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SUMMARY OF INCIDENT:

On 29 August 2012, at approximately 2004 hours, Officer A, and Officer B, were working Beat 41S72C. Officers A and B received information from a confidential informant that there were people at Ada Park, 11250 S. Ada Street, with guns. As the officers patrolled the area, they observed three black juvenile male subjects, now known as Subject 1, Subject 2 and Subject 3, walking northbound across 112th Place onto Throop Street. During this time, the officers observed Subject 1 and Subject 3 reach for something in their respective waistbands. The officers attempted to stop the group by blocking their path with their squad car, and then told the group to place their hands on the hood of the squad car. At that time, Subject 1 and Subject 2 fled northbound on Throop Street, toward 112th Street, while Subject 3 ran southbound towards Ada Park. Officer A, who was the passenger officer, exited the squad car and pursued Subject 1 and Subject 2 on foot, while Officer B pursued Subject 1 and Subject 2 in the squad car.

Subject 1 and Subject 2 then ran westbound onto 112th Street with Officer A, and Officer B, still in pursuit. As Subject 1 ran, he pointed and fired a gun at Officer A. Officer A, in fear for his life, then fired his weapon several times, striking Subject 1. Subject 2 stopped running and laid on the ground. Officer B stopped the squad car, handcuffed Subject 2 and placed him in custody. Officer B then proceeded to check on Officer A. As Officer B ran westbound on 112th Street, he observed Officer A positioned behind a van. Officer A then told Officer B that he had been shot in the leg. Officer B then observed Subject 1 lying on the sidewalk and placed him into custody.

Subject 1's weapon, with the magazine, was recovered at the scene, on the west side of 1313 W. 112th Street.

INVESTIGATION:

In a statement to IPRA on 05 August 2014, **the Witness, Witness 1**, stated that on 29 August 2012, she was at Witness 12's house, located at 1XXX W. 112th Street, for a party. During this time, something diverted her attention to the street, where she observed black male, now known to be Subject 1, running toward her general direction with a black gun in his hand. Witness 1 also observed a black male officer, now know to be Officer A, pursuing Subject 1 on foot and telling him to "stop police" twice. Witness 1 did not see a gun in Officer A's hand at that time. According to Witness 1, Subject 1 continued running, pointed his gun at Officer A, and fired the weapon once at the Officer A. Witness 1 stated that that she observed a muzzle flash from Subject 1's gun. Witness 1 further related that Officer A stopped running and went down on one knee. Witness 1 did not initially know that Officer A had been shot.

According to Witness 1, Subject 1 continued running into a gangway while Officer A got up and continued to pursue Subject 1. Officer A then went behind a van and Witness 1 was unable to see what else occurred. Witness 1 did not observe Officer A fire his weapon at Subject 1. During this time, additional officers arrived on the scene, searched the area, and interviewed her and the other people in the area. Witness 1 related that she heard someone say that Officer A was shot, but she did not know the extent of his injuries.

Several attempts were made, by IPRA, to interview **Subject 1**, but he refused to cooperate.

Attempts to interview **Subject 2** were met with negative results.

The **Arrest Report of Subject 1** stated that he was arrested for Aggravated Battery/Discharge Firearm by Officers A and B. The narrative of the report related that Subject 1 was observed with a handgun by Officer A. Subject 1 was placed in custody, and the weapon was recovered.

The **Arrest Report of Subject 2** indicated that he was arrested for Aggravated Unlawful Use of a Weapon/Loaded Gun by CPD Detectives 1 and 2. Subject 2 was placed under arrest in reference to Subject 1 shooting Officer A. Subject 2 told detectives that he provided Subject 1 with the .380 caliber semi-automatic handgun, which Subject 1 had in his possession when taken into custody.

The **Tactical Response Report (TRR)** completed by Officer A reported that Subject 1 did not follow verbal direction, fled, attacked with a weapon, used force likely to cause death or great bodily harm, and a weapon. Officer A responded with member presence, verbal commands and a firearm. It is reported that Subject 1 fired a gunshot at Officer A, striking Officer A in the left knee. Officer A in fear for his life, and his partner's life, returned fire, striking Subject 1. Subject 1 was apprehended and his weapon was recovered.

The **Officer's Battery Report** for Officer A reported that, when he responded to a call of man with a gun, he was shot with a 380 semi-automatic.

The **Crime Scene Processing Reports** documented that the evidence technician responded to the location of 1313 W. 112th Street for an aggravated battery to a police officer. The evidence

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technician recovered Officer A's gun from CPD Sergeant 2. The evidence technician also recovered the offender, Subject 1's weapon, a Bersa .380 auto handgun. The reports further related that the evidence technician responded to Christ Hospital and took photographs of Subject 1 and his injuries. A GSR kit was administered to Subject 1 and Subject 2.

The **Evidence Technician Photographs** depicted Subject 1's recovered weapon, a black semi-automatic handgun, which was recovered in the front lawn area of 1317 W. 112th Street. There were also several photographs of the scene, which depicted blood stains and several shell casings.

The **Evidence Technician Photographs** depicted Officer A's clothes and CPD equipment (Gun belt, flashlight, badge and bullet proof vest).

The **Evidence Technician Photographs** depicted Subject 1 on the gurney at the hospital. Subject 1 had one (1) gunshot wound to the right side of the body, near his rib cage. Subject 1 also sustained a gunshot wound to the right small toe area.

The **Evidence Technician Photographs** depicted pictures of Subject 2. There were no injuries to Subject 2.

The **OEMC Event Queries** indicated that an unknown caller stated that they saw three (3) black males walking through an alley. One (1) of the black males had a long jacket on and another had on a long sleeve shirt. The black males split up when they saw helicopters. The event query also indicated that, Officer A was shot in the knee, and is in stable condition. Officer A was taken to Christ Hospital.

The **OEMC Audio Transmissions** indicated that several callers heard several gunshots in the vicinity 111th and 112th, Throop and 111th, and 112th and Loomis. The transmissions also documented an officer (Officer A) reporting shots fired at the police at 112th and Racine and that an officer has been shot and needs an ambulance.

The **Canvass** conducted by IPRA personnel in the vicinity of 1313 W. 112th Place did not reveal any additional witnesses.

The **Drug Testing Synoptic Report** completed by CPD Sergeant 1 stated that Officer A was not administered a drug test because he was having surgery.

The **CFD Ambulance Report** indicated that the paramedics responded to the location of 1313 W. 112th Street, for gunshot wound victim, Officer A. Officer A had a gunshot wound to the left calf area.

The **Medical Records** of Officer A from Christ Hospital indicated that Officer A sustained a gunshot wound below the knee. Diagnosis is left leg pain from gunshot wound. Officer A underwent surgery to remove the bullet fragment from his left leg.

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The **CFD Ambulance Report** indicated that the paramedics responded to the location of 11230 S. Racine for Subject 1, who sustained two gunshot wounds; one to the right flank, and one to the right toe. Subject 1 was also bleeding from the mouth and sustained an elbow abrasion. Subject 1 was transported to Christ Hospital.

The **Medical Records** of Subject 1 from Christ Hospital indicated that he had a gunshot wound to the right foot in the phalanx of the 5th digit. Subject 1 also sustained through and through gunshot wounds to the right flank. Subject 1's primary diagnoses was a fractured phalanx of the 5th digit and a gunshot wound. Subject 1 refused to tell the medical staff how he sustained his injuries.

Illinois State Police Forensic Science Laboratory Reports documented under Lab Case #C12-036357, reported that Officer A's firearm was tested and was found to be in proper working condition. The unfired cartridges were analyzed for caliber and type only. Subject 1's weapon was tested, and was found to be in proper working condition. A Buccal swab test was conducted on Subject 1 and Subject 2. The swabs were compared to the Bersa pistol. There was insufficient DNA evidence to match them to the weapon.

A bullet fragment was recovered from Officer A's leg. ISP testing indicated that the bullet fragment caliber was unknown and exhibited an unknown number of lands and grooves, with an unknown direction of twist. The bullet fragment could not be identified or eliminated as being fired from Officer A's weapon or Subject 1's weapon.

A gunshot residue (GSR) test was conducted on Subject 1 and Subject 2. The GSR test determined Subject 1 and Subject 2 may not have discharged a firearm or may have, and the residue had been removed by activity, was not deposited, or was not detected by the procedure.

The **Detective Supplementary Reports filed under RD #HV-406247 (Battery /Aggravated P.O.: Handgun)**, indicated that the detectives interviewed a witness, Witness 1. Witness 1 stated that she was sitting in her yard, 1XXX W. 112th Street, when she saw an officer on foot, Officer A, and an officer driving a squad car, Officer B. The officers were chasing a heavysset black male, wearing a white T – shirt, Subject 1. Witness 1 observed muzzle flashes from the west side of the area, and Officer A ducked behind her vehicle. Officer A yelled, "Freeze police!" Subject 1 fired his weapon and Officer A fired back. At this time, Witness 1 went into her house.

The detectives spoke with a Witness 2, who stated that she was on the porch when she observed a white four door vehicle driving east bound and pulling over across the street. Witness 2 said that three black males exited the vehicle and two of them had guns. The black males shot at [First Name of Subject 1] and "[NICKNAME]" who were across the street. Witness 2 believed that [Subject 2] may have shot back. The police arrived on the scene and the first black male started shooting a "big gun" at the officers. The officers shot back and the male fell down. The second black male fled south bound through the east gangway of the house. The police also locked up [Subject 2] and "[NICKNAME]."

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The detectives interviewed the witness, Subject 2, who stated that he was walking northbound on Throop Street, from Ada Park with his friends, Subject 3 and Subject 1. During this time, a squad car pulled up in front of them and cut off their path. Subject 2 reported that he and Subject 1 ran westbound on 112th Street, while Subject 3 stayed behind running eastbound, possibly back towards Ada Park. According to Subject 2, one of the officers, Officer A, ran after them on foot, as the other officer, Officer B, pursued them in the squad car. Subject 2 then observed Subject 1 pull out a handgun and attempt to pass it to Subject 2. Subject 2 ignored Subject 1 by refusing to accept the handgun.

Subject 2 stated that he heard the officers telling them to get down several times, and eventually Subject 2 complied. Subject 2 then heard gunshots emanating from behind him. Subject 2 then heard more gunshots and observed that Officer A was shot. Officer B then approached Subject 2 and placed him handcuffs. Subject 2 related that he got the handgun from a guy named “[Male First Name],” and Subject 2 gave the gun to Subject 1 earlier that day.

The detectives also spoke to a Subject 3. Subject 3 stated that on 29 August 2013, he was leaving Ada Park with his friends, Subject 2 and Subject 1, when an unmarked squad car pulled up next to them. Subject 3 informed the detectives that he heard about twelve gunshots, but he never observed the actual shooting. About thirty minutes later, the police arrived at his house. Subject 3 indicated that he did not observe Subject 1 with a gun.

The witnesses, Witness 3, Witness 4, Witness 5, Witness 6, Witness 7, Witness 8, Witness 9, Witness 10, Witness 11, Witness 12, Witness 13, Witness 14, Witness 15, Witness 16, Witness 17, Witness 18, Witness 19, Witness 20, Witness 21, Witness 22, Witness 23, Witness 24 and Witness 25, heard several gunshots, but did not witness the shooting.

The detectives attempted to interview Subject 1, but he refused.

The report stated that CPD Detective 3 received a phone call from ISP Crime Lab Supervisor A, who related that the recovered bullet from Officer A did not match the Bersa .380 cal handgun recovered from Subject 1. ISP Crime Lab Supervisor A added that, due to the characteristics of the bullet, it was more consistent with being fired from a revolver.

It should be noted, that the detectives initially searched the area of 1313 W. 112th Street, in an attempt to recover another possible weapon, including a revolver, because no spent shell casings from a Bersa .380 caliber were recovered on the scene, nor were there any other spent casings recovered, although Officer A had sustained a gunshot wound.

In statement to IPRA on 30 August 2012, the **witness, Officer B**, stated that, on 29 August 2012, he was working with Officer A. Officer B related that he received information that kids leaving that basketball game at Ada Park had guns. Officers A and B responded to the location and observed several kids cross from south to north on 112th Place, near Throop. Officer B indicated that as the individuals were crossing the street, two of the kids (Subject 1 and Subject 2) were holding their sides, as if they were concealing something. Officer B believed that Subject 1 and Subject 2 were carrying guns.

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According to Officer B, he and Officer A conducted a street stop on Subject 1, and Subject 2. Officer B, who was driving the squad car, pulled in front of Subject 1 and Subject 2, cutting off their path, and told them to put their hands on the car. At this time, Subject 1 and Subject 2 began running. Officer A exited the squad car and pursued Subject 2, and Subject 1 on foot. Officer B followed them in the squad car. Officer A order Subject 1 and Subject 2 to stop, but they continued running. Officer B explained that he observed Subject 1's body facing toward Officer A, with his arms extended, and his body facing away, but his arms, shoulders, and head turned towards Officer A. Officer B related that Subject 1 was aiming his gun at Officer A. Officer B then heard gunshots, but he did not see a muzzle flash. Officer B indicated that Subject 1 is about 20 to 30 feet away during this time.

Officer B explained that when the gun was fired, Subject 2 immediately dropped to the ground. Officer B exited the vehicle, and detained Subject 2. Once Officer B placed Subject 2 into custody, he put him on top of the squad car. During this time, Officer B observed Officer A fire his weapon at Subject 1. Officer B left Subject 2, and ran toward Officer A, and Subject 1. Officer A is leaning against a van during this time, and Subject 1 was lying face down on the ground at 1313 W. 112th Street. Officer B immediately went over to Subject 1 and handcuffed him. During this time, Officer A informed Officer B that he had been shot. Officer B then announced on the radio his location and reported the shots fired. Officer B also called for an ambulance for Officer A and Subject 1. Several officers arrived on the scene, secured Subject 1 and recovered his weapon. Officer B stated that the weapon was recovered along the side of the house (1313 W. 112th Street).

In statement to IPRA on 26 June 2014, the **involved member, Officer A**, stated that on 29 August 2012 his partner, Officer B, told him that he received information from a confidential informant about kids having guns at Ada Park, 11250 S. Ada Street. Officer A and Officer B went to Ada Park to check out the situation. Upon arrival, they stopped in the vicinity of 112th and Throop. Officer A related that he was the passenger in the vehicle, and he observed black male subjects leaning on a fence. One of the black male subjects, now known as Subject 1, had his hands under his jacket, and he appeared to be holding a gun. Officer A indicated that he could see the shape of a gun through the jacket. Officer A did not observe anyone else with a gun at that time.

Officer A exited the squad car, announced his office, and told Subject 1 and the other two men, now known as Subject 2 and Subject 3, to get on the ground. At this point, Subject 1 and Subject 2 began running westbound on 112th Street, and Subject 3 remained at the location. Officer A pursued them on foot and Officer B pursued them in the squad car. As Subject 1 and Subject 2 fled, Subject 1 attempted to hand Subject 2 the gun. Subject 2 immediately put his hands in the air, refusing to take the gun, and then fell to the ground. Subject 1 continued running, during which time, "He peeked over his shoulder and he pointed the gun right at me (Officer A) and then let one round off." Officer A heard the gunshot, and then felt pain in his left leg.

Officer A related, that he returned fire Subject 1 several times. Officer A did not know how many times he fired at Subject 1, or if Subject 1 was struck. Officer A then shielded himself behind a conversion van, because Subject 1 still had the weapon in his hand. Officer A gave verbal commands for Subject 1 to get on the ground. According to Officer A, Subject 1 got in a

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crouching position and began raising his gun toward Officer A. Officer A then stepped around the van and fired two or three rounds at Subject 1. Subject 1 then fell to the ground. Officer A then got on the radio and called for assistance. Officer A was not sure where Subject 1 was shot.

The paramedics arrived on the scene and took Officer A to Christ Hospital. Officer A sustained a gunshot wound to the right knee, under the knee cap. The bullet fragment was lodged in the calf area.

CONCLUSION AND FINDING:

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

Officers A and B responded to the vicinity of 11250 S. Ada, in response to information they received from a confidential informant, who reported that there were people at Ada Park with guns. When they got to the scene, they observed Subject 1 with his friends, Subject 2 and Subject 3. Subject 1 appeared to be concealing a weapon when they arrived on the scene. Officer A exited the vehicle and attempted to conduct a field interview. At this time, Subject 1 and Subject 2 fled the scene and Officer A pursued them on foot. Officer A gave Subject 1 several verbal commands to stop running, but he refused. Subject 1 then pointed his weapon at Officer A and fired once, striking Officer A on the left leg, near his knee. Officer A then removed his weapon from his holster and fired several times at Subject 1. Subject 1 was subsequently placed into custody with out further incident. Subject 1's weapon was recovered at the scene.

Furthermore, the witness, Subject 2, admitted that he observed his friend, Subject 1, with a gun. In fact, Subject 2 stated that he personally gave Subject 1 the gun earlier that day. The witness, Witness 1, also stated that she observed Subject 1 running with a gun and observed him fire the weapon at Officer A.

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Officer A's actions were in accordance with the requirements of the Department's Use of Deadly Force Policy, and with the statute "to prevent death or great bodily harm to the sworn member or to another person," because he reasonably believed his life was in danger when Subject 1 pointed and fired a weapon at him. Officer A account of the incident was supported by witnesses on the scene and the evidence collected.