

INDEPENDENT POLICE REVIEW AUTHORITY
Log 1056786 / U# 12-28

INVESTIGATION

NUMBER: Log #1056786/U #12-28

OFFICER

INVOLVED #1: “Officer A” (Chicago Police Officer); Male/White; 29 years old; On-duty; In Plainclothes; Year of Appointment – 2006

OFFICER

INVOLVED #2: “Officer B” (Chicago Police Officer); Male/White; 30 years old; On-duty; In Plainclothes; Year of Appointment – 2007 (Did not fire)

OFFICERS’

INJURIES: None to any officer.

SUBJECT: “Subject 1”; Male/Black; 23 years old

SUBJECT’S

INJURIES Gunshot wounds to both feet and left leg. Treated at Christ Hospital.

DATE/ TIME: 02 SEP 12, 2051 hours.

LOCATION: 670 E. 131st Street – dumpster pen.

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SUMMARY OF INCIDENT:

On 02 SEP 12, at 2051 hours, Officers A and B were on patrol within the Altgeld Gardens housing complex. They observed Subject 1 leaning against a fence located to the north of an enclosed dumpster pen. The officers noticed that he stood straight up when he noticed them and may have had an object under his shirt. The aforementioned officers exited their unmarked squad car in order to conduct a field interview but Subject 1 entered the dumpster pen out of their view. The officers then heard noises originating from within the pen and believed Subject 1 was in it. Officer B then observed Subject 1 crouched down behind a dumpster holding a gun. He announced his office, and ordered Subject 1 to drop the weapon and show his hands. Subject 1 raised the weapon and Officer A discharged his firearm, striking Subject 1 in the feet. Subject 1's weapon was recovered and he was transported to Christ Hospital for treatment of his injuries.

INVESTIGATION:

During the **Preliminary Investigation** of the incident, an IPRA investigator responded to Christ Hospital where Subject 1 had been taken for treatment. Subject 1, who had provided a fictitious name upon arrival at the hospital, had a bullet lodged in his right foot. Subject 1 was not interviewed at that time because he was undergoing treatment for his injury.

Subject 1 refused to provide a statement relative this incident.

A **Chicago Fire Department Ambulance Run Sheet** notes that Subject 1 sustained gunshot wounds to both ankles and the lower left leg, and was unable to bear weight on his extremities. Subject 1 did not respond to assessment questions but did not complain of other pain or distress.

Medical Records from Christ Hospital reflect that Subject 1 was admitted for treatment on 02 SEP 12, at 2358 hours. He complained of pain to both feet which was the result of gunshot wounds to both extremities. He was discharged on 04 SEP 12 after having had surgery on the affected areas.

The **Arrest Report** for Subject 1 reflects that he was arrested after he was observed holding a firearm and pointing it at Officer B. Tactical Response Reports completed by Officers A and B reflect that Subject 1 was an Assailant/Deadly Force with a weapon and in response, Officer A discharged his firearm. Officer B utilized an emergency takedown procedure to place Subject 1 in custody.

A **Canvass** of the area of this incident did not produce any eye-witnesses to the incident. During the canvass, however, IPRA investigators approached an unidentified individual who indicated that he was Subject 1's cousin. This subject stated he was not an eyewitness to the incident but was speaking with Subject 1 via cellular telephone when it occurred. Subject 1 told him that just prior to the incident, a "dice" game north of 131st Street had been broken up by the police. Subject 1 then entered a walled-in dumpster area in order to relieve himself. Upon finishing, Subject 1 retrieved his cellular telephone and resumed his conversation with his cousin. At that time, Subject 1 told his cousin that three unidentified males ran into the same dumpster area, but one of them scaled the wall to exit such. Subject 1's cousin then heard eight to 12 gunshots in rapid succession.

A **POD** located at 659 E. 151st Street did not record this incident.

A review of **OEMC recorded telephone calls** notes that a female subject¹ reported shots fired in the area of this incident but she did not witness who fired them.

¹. OEMC Event Queries identified this individual as [Female Caller]. Given that she indicated she did not witness who fired the gunshots she heard, she was not interviewed relative to this incident.

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Additional calls were made by several police units requesting officers at the scene of this incident. A short time later, a “slowdown” was issued.

Blood-Alcohol testing following this incident found no traces of alcohol or controlled substances in the blood of either Officer A or B.

Evidence Technician photographs depict the involved officers in the clothing they were wearing on the date of this incident. The same photographs show Subject 1’s gun and ammunition, and his clothing. Also depicted is the scene of this incident, the locations of the bullet casings, and dumpsters within the pen.

A report from the **Illinois State Police, Division of Forensic Services**, dated 11 JAN 13, reflects that Subject 1’s weapon was examined, found to be in firing condition, and test fired. Twenty-two, 9mm unfired cartridges were found in the magazine. The same report notes that Officer A’s weapon was examined, found to be in firing condition, and test fired.

A report from the **Illinois State Police, Division of Forensic Services**, dated 14 SEP 12, reflects that no fingerprints suitable for comparison were found on Subject 1’s gun.

The **Detective Supplement Report** notes that a canvass of the area was conducted following the incident. Several individuals were identified as having heard multiple gunshots but did not witness the incident. The detectives spoke with an individual who stated that she was visiting with a person residing at XXX E. 131st Street.² Witness 1 indicated that she observed an unidentified black male subject run into a garbage area followed by two white male police officers. She then heard the police yell, “Show me your hands! Show me your hands!” followed by several gunshots. A Cobray Firearms M11 submachine gun with an extended clip was recovered and inventoried. The involved officers provided essentially the same account of the incident to the detectives as they later did in their statements to IPRA. The detectives attempted to interview Subject 1 but he refused to speak with them. The Chicago Housing Authority was contacted regarding video of the incident nearby surveillance cameras may have recorded. A CHA Video Analyst indicated that the cameras went down on 31 AUG 12 and thus, were not operational on the date of this incident.³

In his statement to IPRA on 03 SEP 12, **Involved Officer B** stated that on 02 SEP 12, at 2050 hours, he was on routine patrol, working Beat 563C, in plainclothes. His

². This individual identified herself to the detectives as Witness 1. The detectives attempted to obtain her contact information but she became belligerent and refused to cooperate. The R/I attempted to contact Witness 1 at the address noted in the report, but she could not be located. See attachment #48.

³. The R/I contacted this individual, [Analyst], who confirmed the status of the cameras. See Attachment #47.

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partner was Officer A and they were assigned to an unmarked squad car. At the aforementioned date and time, he observed Subject 1 standing near a fence about 15 feet away but within the housing complex. Upon seeing the officers, Subject 1 stood up straight, turned, and walked away from them. Officer B told Officer A that he wanted to stop Subject 1 for a field interview. He subsequently exited from the driver seat and approached Subject 1. Officer B stated that, based on his experience, he decided to stop Subject 1 due to the fact that he was acting suspiciously.

Officer B then walked to the north side of a nearby dumpster pen while Officer A went to the opposite side in search of Subject 1. The two officers then met at the entrance to the dumpster pen and heard rustling sounds. They entered the area and after a quick search, located Subject 1 crouching behind one of the dumpsters. Officer B observed a gun⁴ attached to a sling that was around Subject 1's shoulder. He ordered Subject 1 to raise his hands but Subject 1 grabbed his weapon and raised it in a vertical motion towards him. Officer B then heard several gunshots that were fired by Officer A. Upon inquiry, Officer B indicated that he was approximately five to six feet from Subject 1 when he observed him holding a gun. He added that he did not know Officer A's exact position at the time the shots were fired other than he was standing off to his left. Officer B also said he did not know how many shots were fired.

Officer B approached Subject 1 and removed the gun from the sling, and moved it to a safe location away from Subject 1. He immediately called for an ambulance and made other notifications. Officer B stated that he did not see if Subject 1 was in possession of a weapon when he initially spotted him but suspected that he might have been armed due to his actions. He added that he drew his weapon upon entering the dumpster pen but did not fire it. Officer B indicated that he heard his partner announce his office prior to him firing his weapon and heard the gun shots approximately five seconds after Subject 1 raised his weapon. Furthermore, Officer B stated that Subject 1 did not fire his weapon but was struck in the ankles and/or feet.

In his statement to IPRA on 04 SEP 12, **Involved Officer A**, provided essentially the same account of the incident as Officer B. He added that he initially did not know how many times he discharged his firearm but later learned that he fired eight times. He added that he clearly observed Subject 1 holding a firearm and pointed it at his partner. In fear for his partner's safety, he discharged his firearm.

⁴ Officer B identified Subject 1's gun as a Cobray M11, with a 22 round magazine.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by the involved officers was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order G03-02-03, Section II:

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 evidence in this case indicates that Officer A's use of deadly force was in compliance with the above referenced General Order. Both Officer B and Officer A stated they observed Subject 1 holding a firearm and upon orders to drop it and raise his hands, pointed it at Officer B. Officer A stated that in response to this threat, he fired his gun at Subject 1 in response to this threat. There is no evidence to contradict the officers' account of this incident or cast any doubt they were in fear of their lives when Subject 1 pointed his weapon at Officer B. Given this, Officer A's discharging of his firearm was necessary and proper.