

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1056931 / U #12-32

INVESTIGATION

NUMBER: Log #1056931/ U#12-32

OFFICER

INVOLVED#1: “Officer A” (Chicago Police Officer); Male/White; 31 years old; On Duty; Civilian Dress; Year of Appointment – 2005

OFFICER #1’S

INJURIES: None reported.

OFFICER

INVOLVED #2: “Officer B” (Chicago Police Officer); Male/White; 43 years old; On Duty; Civilian Dress; Year of Appointment – 1994

OFFICER #2’S

INJURIES: None reported.

SUBJECT: “Subject 1”; Male/Black; 26 years old

SUBJECT’S

INJURIES: (1) Gunshot wound to face/jaw, (1) gunshot wound to the left wrist, graze wound to the hand. Transported to Loyola Hospital in Serious Condition.

DATE/TIME: 09 September 2012, 2126 Hours

LOCATION: 5429 West Bloomingdale (Alley)
Beat 2532

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SUMMARY OF INCIDENT:

On 09 September 2012, at approximately 2126 hours, Beat 2566B, Officer B, and Officer A, responded to a 911 call of a robbery in progress/man with a gun. It was reported that the subject was a black male with braids, grey shirt and jeans. Officer B drove west on Bloomingdale with Officer A in the passenger seat and approached the alley between Long and Lotus. The officers observed a subject, now known to be Subject 1, matching the description of the offender, fidgeting with his waistband in the alley.

Officer B exited and went around to the rear of the squad car, while Officer A remained in the passenger's side open door area. The officers gave verbal commands for Subject 1 to show his hands, but he refused. Subject 1 produced a silver object from his waist band, held it with both hands and pointed it in the direction of the officers. Subject 1 then threatened the officers by stating, "I'll fucking kill you!" Both officers ordered Subject 1 to drop the weapon, but he refused. The officers, fearing for their lives, discharged their weapons. Subject 1 fell to the ground and the officers placed him into custody. Subject 1 was transported to Loyola Hospital in serious condition with multiple gun shot wounds.

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The **Department Reports** related that Subject 1 was arrested for aggravated assault to Officer B and Officer A. The incident narrative of the report documented that Subject 1 threatened to kill Officer B and Officer A by stating “I’ll shoot you!” “I’ll shoot you!” while pointing a silver object at the officers. Officer B and Officer A, in fear of their lives, shot Subject 1. Subject 1 sustained multiple gunshot wounds and was transported to Loyola University Hospital for treatment to his injuries. (Att. #5).

A **Tactical Response Report** completed by Officer A documented that Subject 1 “did not follow verbal direction.” Officer A responded with “member presence”, “verbal commands”, and the use of his “firearm”. The narrative documented that the “subject took a shooting stance and pointed a shiny object at R/O’s Officer A and Officer B, putting them in fear for their lives and fear of being shot by subject.” (Att. #8)

The Officers Battery Report for Officer A documented that he feared of being shot when Subject 1 pointed a silver object at him. Officer A did not receive any type of injury. (Att. #9)

A **Tactical Response Report** completed by Officer B documented that Subject 1 “did not follow verbal direction.” Officer A responded with “member presence”, “verbal commands”, and the use of his “firearm”. The narrative documented that “officers were placed in fear of their lives as the subject took a shooting stance and raised both arms while holding and pointing a silver object. The subject moved forward while threatening to shoot and kill officers numerous times.” (Att. #10)

The Officers Battery Report for Officer B documented that he gave numerous commands for Subject 1 to drop the silver object he was holding, after he threatened to shoot and kill him and Officer A. Officer B did not receive any type of injury. (Att. #11)

Attendance and Assignment Sheets documented that on 09 September 2012, Officer B was assigned Beat 2566A in car 3959 from 1530 to 0030 hours. His partner, Officer A was assigned Beat 2566B in car 3959 from 1530 to 0030 hours. (Att. #58)

The **Chicago Fire Department Ambulance Report** documented that Subject 1 was lying on the right side with his head in a pool of blood when paramedics arrived at the scene. The narrative documented that Subject 1 received a gun shot wound to the right cheek that exited at the back of the head and a second gun shot wound to the left wrist and finger. Additionally, the report documented that Subject 1 was involved in a police shooting. (Att. #37)

On 10 September 2012 at approximately 0030 hours, the R/I and IPRA Investigator 1 visited Loyola Hospital and attempted to interview Subject 1. Subject 1 was found to be intubated and sedated and could not be interviewed. Investigators met with CPD Detective 1, Beat 5396D, who stated that the attending physician, Doctor A, was not available for an interview but had informed CPD Detective 1 that Subject 1 had sustained

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three gunshot wounds; one gunshot wound to his right cheek that lodged in his left jaw, a second to his left hand, and the third was a graze wound to his right hand. (Att. #15)

IPRA sent a **certified letter** to the family of Subject 1 detailing that IPRA is conducting an investigation into the police involved shooting involving Subject 1. (Att. #25)

Additional attempts to interview Subject 1 were met with negative results. The R/I made several attempts to contact Subject 1 at his court appearance and last known place of residence. Subject 1 has not cooperated with the investigation. (Att. #52)

Medical Records for Subject 1 from Loyola Medical Center (Medical record #2217119) documented that Subject 1 was admitted to the emergency room on 09 September 2012 for multiple gun shot wounds to the right cheek and left wrist. Subject 1 was seen by Doctor A. The documents listed Subject 1's address as XXXX N. Lotus, Chicago, IL 60639 and his date of birth as XX March 19XX. Upon admission into the hospital, Subject 1 was EMS trauma level 1. Subject 1 was intubated, x-rayed and had a CT scan performed. A urine drug screening was negative, but Subject 1 tested positive for ETOH¹ at a value of 74. Subject 1 was discharged on 26 September 2012. [Name Withheld], Social Worker, documented telephone contact with Subject 1's mother, [Subject 1's Mother] on 10 September 2012. [Subject 1's Mother] related that Subject 1 drinks one to two times a week and that he "is a little fella that tried to keep up drinking with big fellas." There was no history of alcohol or substance abuse and no mental health issues were reported. (Att. #45)

A **Canvass** was conducted on 19 September 2012 near the location of 5429 W. Bloomingdale. IPRA Investigator 2 was unable to locate any residents that witnessed the incident in question. (Att. #43)

Crime Scene Processing Report #206209 documented items inventoried and photographs obtained by the Evidence Technicians at the scene. The report also documented that Officer B and Officer A weapons were recovered and swabbed in the presence of Deputy Chief A and CPD Detective 2 in the conference room of Area North. Subject 1's clothing was recovered from Loyola Hospital. The report was submitted by Officer C. (Att #17).

Evidence Technician Photographs documented the crime scene, the involved officers and Subject 1's injuries. (Atts. #27-31).

Illinois State Police Forensic Science Laboratory Reports documented under Lab Case #C12-040843 that Officer B and Officer A firearms were tested and were in proper working condition. The unfired cartridges were analyzed for caliber and type only. The bullet fragment recovered from a flower bed in the rear yard near a back gate was fired from a Smith and Wesson, 9mm, Lugar semiautomatic pistol. This pistol belongs to Officer B. (Atts. #55, 57)

¹ ETOH stands for ethanol.

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A search of **Police Observation Devices (PODS)** in the vicinity of the alleged incident found there were no PODS in the area relevant to this investigation. (Att. #16).

The related **OMEC Event Queries** documented that at 2131 hours on 09 September 2012 a police officer reported shots fired by the police at Lotus and Bloomingdale. An ambulance was immediately dispatched to the scene. (Atts. #12, 35)

The related **OEMC 911 Calls** documented that Subject 1 placed two calls to report that he had been robbed. Subject 1 gave a description of himself as the offender, a male black with braids wearing a gray shirt and blue pants. Subject 1 told the operator that the offender possessed a gun. In his second call, Subject 1 is heard again giving a description of himself as the offender. Towards the end of the call the noise of screeching tires is heard. Seconds later, Subject 1 is heard stating "I'll fucking shoot you." An unknown male in the background yelled "drop it!" Subject 1 again stated "I'll fucking shoot you sir. I'll fucking shoot you." The unknown male again yelled "drop it" before the line went dead. (Atts. #32, 42)

The **Detectives Supplementary Report** documented the Reporting Detectives investigation of the incident. On 09 September 2012, at approximately 2140 hours the Reporting Detectives were assigned by CPD Sgt. A to investigate a police involved shooting which occurred at Bloomingdale and Lotus.

After arriving at the scene, the Reporting Detectives learned that the offender, Subject 1, was transported to Loyola Hospital by CFD Ambulance #10. The Reporting Detectives learned that Officers Officer B and Officer A were the officers involved in the shooting. The reporting detectives inspected the crime scene. The area of Lotus and Bloomingdale is a residential neighborhood consisting of single family homes and two and three flat apartment buildings. Bloomingdale is a two-way east to west vehicular street. Lotus is a one-way street southbound. Long is the first street to the east. The police vehicle driven by Officer B was parked at 5414 W. Bloomingdale. The vehicle was facing westbound parked at the mouth of the alley on Bloomingdale between Lotus and Long. The Reporting Detectives observed a bullet strike to the inside of the front passenger door frame of the squad car. On the ground at the mouth of the alley was a small piece of black plastic that appeared to be from the interior door panel. The Reporting Detectives observed seven fired 9mm cartridge cases on the street located near the rear passenger side of the squad car, and the rear of the squad car.

Located on the ground in the center of the alley at 1801 W. Lotus were two phones. One was a "Sprint" LG cell phone, orange and black in color. The other phone was a larger "Panasonic" cordless handset phone, silver and black in color. On the ground, just north of the phones was a pool of blood and a gray short sleeve button down shirt. The shirt was cut and bloody.

The garage located at 1804 W. Long had two bullet holes in the north exterior wall, near the west portion of the garage. A black City of Chicago garbage cart located in the alley

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behind the garage at 1806 W. Long had a bullet hole that traveled through the cart from south to north. A black City of Chicago garbage cart located in the alley behind the garage at 1807 W. Lotus had two bullet holes that traveled through the cart and exited out the side. One of the fired bullets appeared to strike a wrought iron fence that was located between the garages at 1805 and 1807 W. Lotus. The Reporting Detectives observed a bullet hole in the southwest corner of the garage located at 1810 N. Long. The Reporting Detectives observed an overhead alley light that was illuminated near the garage located at 1804 N. Long.

On 09 September 2012, at 2230 hours, CPD Detective 3 and CPD Detective 4 interviewed [Subject 1's Father] at his residence located at XXXX N. Lotus. [Subject 1's Father] related that Subject 1 had informed him that he had been the victim of a robbery at approximately 1830 hours. Subject 1 related that he was robbed at gunpoint somewhere on North Avenue and appeared to be under the influence of drugs or alcohol. Subject 1 had been a victim of a robbery on four to five prior occasions. [Subject 1's Father] added that Subject 1 appeared to be distraught and acting strangely over the recent death of his friend [Name Withheld].

The Reporting Detectives learned from OEMC that the 911 caller called from a Sprint PCS cell phone (773-XXX-XXXX) and identified himself as [Different Name]. It was later determined that the 911 caller was Subject 1, and that the telephone number belonged to his mother's cell phone.

The Reporting Detectives were unable to interview Subject 1 while he was at Loyola Hospital. The Reporting Detectives contacted Loyola Hospital and inquired as to when Subject 1 was released or transferred from the hospital. Loyola Hospital would not provide this information to the Reporting Detectives. The Reporting Detectives made numerous attempts to locate and interview Subject 1 from 28 Sep 2012 until his court date on 15 Oct 2012 with negative results. (Att. #51).

In an audio recorded statement to IPRA, Officer A **stated** that 09 September 2012 he was on duty, in plain clothes and assigned to beat 2566B with Officer B. Officer A stated that they received a call of a robbery in progress at the location of Lotus and Bloomingdale. Officer A stated that when they approached the area of Lotus and Bloomingdale, they saw a subject that matched the description of the offender that was reportedly armed with a firearm. Officer A observed that the subject, now known to be Subject 1, had his hands in his waistband and was removing a silver object which he believed was a firearm. Officer A stated that they stopped their vehicle and observed Subject 1 in a shooting stance, holding the object with both hands and Subject 1 was threatening them by saying he was going to shoot them. Officer A opened the passenger door, exited the vehicle, drew his weapon and shouted "police, police" and then took cover behind the passenger side door of the vehicle. Officer B proceeded to the back of the squad car to take cover. Officer A ordered Subject 1 show his hands, but Subject 1 refused. Officer A heard Subject 1 state "I'm gonna shoot you sir, I'm gonna shoot you sir." Officer A again ordered Subject 1 to drop his weapon, but he refused and continued threatening the officers by stating "I'm gonna kill you, I'm gonna kill you." Officer A

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stated that Subject 1 was in a shooting stance and then made a motion with hands with the object towards them. Officer A who was in fear for his life and his partner's life fired three times at Subject 1. Officer A heard Officer B fire four rounds from his gun. Officer A then approached Subject 1, who was lying on the ground and discovered that the object Subject 1 was holding was a silver cordless home telephone. (Atts. #23, 39, 40)

In an audio recorded statement with IPRA, Officer B stated that on 09 September 2012 he was on duty, in plain clothes and assigned to beat 2566B with Officer A. Officer B was the driver of the squad car, while Officer A was seated in the front passenger seat. Officer B stated that they responded to a call of an armed robbery. Officer B stated that while responding to the scene, they observed a subject matching the description of the offender in an alley. Officer B drove past the alley, stopped, placed the car in reverse and backed up to the alley. Officer B stated that the subject, now known to be Subject 1, had both of his hands in his pants and waistband. Officer B observed Subject 1 pull a silver object out of his waistband and point it towards him and Officer A and started shouting "I'm gonna shoot you." Officer B believed that the silver object was a gun and heard Officer A tell Subject 1 to drop the weapon. Officer B exited the vehicle and took cover behind the rear of the squad car. Officer B announced his office and ordered Subject 1 to drop the gun, but Subject 1 failed to comply. Subject 1 then raised his hands with the silver object and continued to say that he was going to kill the officers. Officer B then fired his weapon from the rear of the squad car, while Officer A was by the passenger side door of the squad car. Officer B stated that he discharged his weapon first, firing four rounds and Officer A discharged his weapon, firing two or three rounds. Officer B stated that he didn't believe that he had any other option because he thought that Subject 1 had a gun and he believed that his life and his partners life was in danger and the only action that he felt that was appropriate was to discharge his weapon. (Atts. #21, 41)

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CONCLUSION AND FINDING:

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

The actions of Officer A and Officer B were in accordance with the statute "to prevent death or great bodily harm to the sworn member or to another person" because they reasonably believed their lives were in danger when Subject 1 moved into a shooting stance and pointed a silver object that resembled a gun towards them.

Officer A and Officer B ordered Subject 1 to drop the silver object, but Subject 1 did not comply. Subject 1 repeatedly threatened the officers when he stated he would shoot them. Subject 1 then took the position of a shooting stance and pointed the silver object in the direction of Officer A and Officer B, who in fear of their lives, discharged their weapons.