

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1056933/U#12-33

INVESTIGATION

NUMBER: Log #1056933 / U #12-33

OFFICER

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 38 years old;
On- Duty; Civilian Dress; Year of Appointment – 2003

**OFFICER’S
INJURIES:**

None Reported

WITNESS

OFFICER #1: “Officer B” (Chicago Police Officer); Male/White; 39 years old;
On- Duty; Civilian Dress; Year of Appointment – 1998
No Injuries Reported

WITNESS

OFFICER #2: “Officer C” (Chicago Police Officer); Male/Black; 43 years old;
On- Duty; Civilian Dress; Year of Appointment – 2000
No Injuries Reported

SUBJECT/

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

**SUBJECT/
OFFENDER’S
INJURIES:**

One (1) gunshot wound to right hip, One (1) gunshot wound
to right bicep, Two (2) gunshot wounds to left buttock

DATE/TIME:

09 September 2012 at 2248 hours

LOCATION:

7941 S. South Shore Drive Beat 422

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1056933/U#12-33

SUMMARY OF INCIDENT:

This investigation, in conjunction with information gained through the investigation initiated by the Chicago Police Department, revealed the following.

On 09 September 2012, at approximately 2248 hours, Officers A, B, and C, who were assigned to Beat 41S70B, in civilian dress, in an unmarked squad car, were on routine patrol, in the vicinity of 7941 S. South Shore Drive, when the officers heard gun shots fired in the area. The officers canvassed the area in an attempt to locate the source and specific location where the shots were fired. At this time, the officers observed a group of male subjects standing on the southwest corner of 80th Street and South Shore Drive. The officers relocated in their squad car to the west alley behind 7941 S. South Shore Drive. The officers then exited their squad car to conduct surveillance on the group. The officers first attempted to obtain a surveillance position on the roof of the abandoned residence at 7941 S. South Shore Drive, but they were unable to gain access. Officer A proceeded through the gangway on the south side of the residence and set his surveillance post in the shrubbery in the front yard. Officer A had a clear and unobstructed view of the group of males at the corner of South Shore Drive and 80th Street from his position. Officer B and Officer C remained at the rear of the residence to provide cover for Officer A and to remain out of view.

Officer A observed two of the individuals from the group walk northbound past his location. Officer A heard one of the subjects speaking about “retrieving the gun” as they walked past. Officer A broke his surveillance and attempted to keep eye contact of the two subjects. Moments later, the two subjects ran back southeast in Officer A’s direction. One of the subjects, now known as Subject 1, ran directly toward Officer A as he held an object, which appeared to be a firearm with an extended magazine under his shirt. The extended magazine was clearly visible to Officer A as it hung out of Subject 1’s shirt.

Officer A announced his office at which time Subject 1 produced the firearm from under his shirt and pointed it in Officer A’s direction. Officer A then discharged his firearm four times, striking Subject 1. Subject 1 fell to the ground and Officer A observed a semi-automatic pistol with an extended magazine lying on the ground near him. Officers B and C heard the gunshots and relocated to the front yard. Officers B and C placed the second subject, now known as Subject 2, into custody and secured the weapon that Subject 1 had pointed at Officer A. After the shots were fired, Subject 2 got down on the ground and put his arms out. Subject 2 was located at 7939 South Shore and was not struck by gunfire or injured in the incident.

Subject 1 was charged with Aggravated Assault of a Peace Officer, Unlawful Use of a Weapon and Unlawful Use of a Weapon – Felon.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1056933/U#12-33

INVESTIGATION:

The related **Department Reports** including the Arrest Report of Subject 1 (CB 18492055, General Offense Case and Supplementary Reports (HV469003) and Officer A's Tactical Response Report (TRR) and Officer's Battery Report (OBR) provide accounts of the incident which are consistent with the facts contained in the Summary of Incident.

The **Office of Emergency Management and Communications (OEMC)** recorded transmissions and related Event Queries were obtained and incorporated into this investigation.¹ An analysis of the transmissions and documents did not reveal any information which was inconsistent with the facts contained in the Summary of Incident and accounts of Officers A, B, and C.²

The **CPD Forensic Services Division Records** (Crime Scene Processing Reports, Video of Scene, Evidence Technician Photographic Records and Inventory Sheets) were obtained and incorporated into this investigation. A Ruger, 9mm, Semi -Automatic high capacity magazine was recovered, swabbed for DNA at the scene and inventoried. Officer A's firearm was recovered and inventoried.

A search of the **Police Observation Devices (POD)** in the vicinity of the incident identified POD #678 (3070 East 79th Place). The POD footage did not capture the actual police shooting and did not depict anything contrary to what was reported.

Illinois State Police (ISP) Division of Forensic Services Reports documenting the examination of recovered ballistic evidence in comparison to the firearm belonging to Officer A and the Ruger 9mm, Semi Automatic, Model P89 recovered at the scene were obtained and incorporated into this investigation. Both were test fired and found to be in firing condition.

In addition, the ISP Report which documents the Gunshot Residue Collection Kit results for Subject 1 and Subject 2 were obtained. The test results of Subject 1 indicated that that Subject 1 discharged a firearm, contacted an item which had Primer Gunshot Residue (PGSR) particles or had his left hand in the area where a firearm was discharged. The test results of Subject 2 were inconclusive as to if Subject 2 discharged a firearm in either hand. If Subject 2 discharged a firearm, the particles were removed by activity, were not deposited or detected.

It should be noted that the citizens identified in General Offense Case Report RD 469003 as being interviewed by the Detectives during their canvass did not observe the police-involved shooting. All indicated they only heard various numbers of shots being fired.

¹ The Personal Data Terminal (PDT) Transmissions for the Beats identified as being on scene via the OEMC Event Queries were obtained and incorporated into this investigation.

² It should be noted that citizen callers contacted OEMC to report shots fired. The citizen callers did not witness the events prior to and/or the actual discharge of Officer A's weapon.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1056933/U#12-33

A **canvass** conducted in the vicinity of 7941 South Shore Drive failed to produce any witnesses to the police-involved shooting.³

A **personal visit** was made to South Shore Brothers Food and Liquors located at 7900 South Shore Drive to view the video footage referenced in the IPRA Canvass Report (Att. 35, page 6).⁴ IPRA was provided the opportunity to view the video footage captured by the establishment's security surveillance cameras. It should be noted that the police-involved shooting occurred out of the range of any exterior camera on the property of South Shore Brothers Food and Liquor.

In notarized correspondence to the Independent Police Review Authority, dated 19 June 2013, **Subject/Offender Subject 1** related that on the date and time of this incident he was walking with his friend Subject 2 when he was stopped by an unknown police officer who handcuffed, searched him and took his identification. Additional officers arrived on the scene and began asking about a shooting in the area. Subject 1 told the officers he heard the shooting but did not know who was involved and/or the location. The officers searched the area but did not find anything. The officers then prepared a "contact card" for Subject 1.⁵ Subject 2, who was stopped further down the street, was now approaching the location where Subject 1 was. Subject 1 was un-handcuffed and told he was free to go.

Subject 1 and Subject 2 walked southbound towards the 8000 Block of South Shore Drive. As Subject 1 and Subject 2 were walking past the location of 7841 S. South Shore Drive, he (Subject 1) heard someone state "got chu motherfucker" or words to that effect. Subject 2 pushed Subject 1 out of the way (into the bushes) and ran north. Subject 1 heard several people telling him to "watch out, he's behind you." Subject 1 observed an unknown "Latino looking" male, squatting and pointing a gun from behind the bushes. Subject 1, in fear for his life, ran and jumped over the other side of the porch. According to Subject 1 as he was in mid-air, he heard four or five (4 or 5) shots fired from behind him. Subject 1 realized that he had been shot several times at which time he "went into shock." Subject 1 tripped, ran into a tree, scraped his left shoulder and struck his head against a brick residence. Subject 1 observed a male Latino officer chasing Subject 2, with his gun pointed as he stated "Chicago Police get the fuck on the ground." Subject 1, who was unable to stay conscious, related that he felt a kick to his left rib, followed by someone saying, "I think I killed him," as Subject 1 faded in and out of consciousness. According to Subject 1, he opened his eyes to see and observed an individual wearing brown pants squatting over him. Subject 1 then felt the individual grab his right hand, place a gun in it (his right hand) and then squeezed Subject 1's right hand with both of his hands for approximately five (5) minutes. Subject 1 recalled hearing another voice state

³ Citizens A, B, and C (who was an OEMC caller and interviewed by the Detectives during canvass) contacted IPRA via telephone in response to the canvass conducted. All reported that they heard gunshots but did not witness the events prior to and/or the actual discharge of Officer A's weapon.

⁴ A call was placed to OEMC from South Shore Brothers Food and Liquors. Storeowner, who identified himself as one of the owners of the business, related he was working on the date and time of the incident and called to report that he heard gunshots. Storeowner did not witness the police-involved shooting.

⁵ Reference ACC000599936.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1056933/U#12-33

words to the effect of “Hey, this is the guy we stopped a couple of minutes ago.” Subject 1 was then placed in an ambulance.⁶

The **Chicago Fire Department (CFD) Ambulance Report** indicates that Subject 1 sustained a gunshot wound to his left arm and above his left buttock. Subject 1 denied loss of consciousness and/or any other pain. Subject 1, who was uncooperative towards Fire Department Personnel, would not tolerate a cervical collar and/or allow them to place a Non-Breather mask (NRB) for oxygen. Subject 1 was transported to Christ Hospital without incident.

In a statement to IPRA, witness **Subject 2** stated that on the date and time of this incident, he was walking in the 7900 block of South South Shore Drive with his friend, (Subject 1).⁷ Subject 2 and Subject 1 went to recover a gun that was hidden in the bushes by the alley. The gun was fired and stashed in the bushes approximately an hour earlier by a man known as “[Nickname].” Subject 1 retrieved the gun out of the bushes while Subject 2 waited for him in front of the bushes. Subject 2 and Subject 1 then walked on South Shore Drive. Subject 1, who was walking in front of Subject 2, turned into the walkway of a vacant building located at 7941 S. South Shore Drive. According to Subject 2, Subject 1 intended to hide the gun at that location. Subject 2 then heard “Police, get the fuck on the ground” followed by five (5) or six (6) gunshots approximately five (5) seconds later. At that time, Subject 2, who was standing in front of the house next to the vacant building, dropped to the ground. Several unknown police officers handcuffed Subject 2.

In a statement with IPRA, **Officer C** provided his account of this incident consistent with the Department Reports, witness accounts and Summary of Incident. Officer C articulated that on the date and time of this incident he was working on the Area South Gun team with Officers A and B. Officer C, who is assigned to the 004th District, is familiar with the area where this incident occurred and that while Officers A and B are not his regular partners, all are assigned to the same team. While Officers A, B, and C were in civilian dress on the date of this incident, all were wearing a Chicago Police Department black bulletproof vest cover, with names and star numbers clearly visible in the front and “Police” on the black in white glow in the dark lettering. Officer C was seated in the rear of the unmarked Ford Crown Victoria. While Officers A, B, and C were on patrol in the area, they heard shots fired. Officers A, B, and C then set up surveillance at the location of 7941 S. South Shore Drive, which is an abandoned residential building. Officer C, who was positioned in the rear of 7941 S. South Shore Drive, did not witness Officer A discharge his weapon. Officer C heard Officer A announce his office followed by four (4) rapid shots. Officer C relocated to the front of the building and observed Officer A standing in front of the building. Officer C observed Subject 1 lying on the ground and a Ruger semi-automatic firearm with an extended magazine on the ground next to Subject 1, less than a foot away. Officer C related that he

⁶ The allegations of excessive force beyond the use of deadly force by the police and allegations as to how Gun Shot Residue (GSR) transfer occurred, as stated in his sworn statement, will be addressed under Log #1070048.

⁷ It should be noted that during the course of Subject 2’s statement to IPRA, Subject 2 made an allegation of excessive force during his interaction with the police post officer-involved shooting. Subsequent to Subject 2’s statement reference, Log 1057002 was obtained and the allegation was investigated.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1056933/U#12-33

stood between Subject 1 and the weapon to ensure it was secured. Officer C did not fire his weapon.

In his statement with IPRA, **Officer B** provided his account of this incident consistent with the Department Reports, witness accounts and Summary of Incident. Officer B, who identified himself as the driver on the date of this incident, related that his regular partner is Officer A. Officer C was with Officers A and B because his partner was off. Officer B was in civilian dress with his star displayed. Officer B related the same account as Officer C relative to the manner in which the officers came to set up surveillance at the location of 7941 S. South Shore Drive. Officer B related that he is familiar with the area from being assigned to the 004th District. Officer B was in the rear of the building with Officer C. Officer B estimated that after five to ten minutes had passed, he heard “police, police, police,” and four (4) consecutive shots. Officer B ran to the front of the building and saw Officer A who was pointing towards the bush. Officer B observed a black male (Subject 1) on the ground with a firearm in close proximity. Officer B estimated the firearm was less than a foot from Subject 1 and described the firearm as a semi-automatic with an extended magazine. Officer B then observed another male (Subject 2) on the ground and Officer A told Officer B that he (Subject 2) was with Subject 1 and Officer B placed Subject 2 in custody. Officer B spoke with Officer A following the incident and Officer A provided him with facts consistent with the Department Reports and Summary of Incident. Officer B related the required and appropriate notifications were made. Officer B observed Subject 1 to be bleeding from the left shoulder. Officer B did not fire his weapon.

In his statement with IPRA, **Officer A** provided his account of this incident consistent with the Department Reports, witness accounts and Summary of Incident.⁸ Officer A, who is detailed to the Area South Gun Team, related that he was in civilian dress with his Chicago Police Star visibly displayed. Officer A, who is right handed, related that on the date of this incident he was carrying his primary duty weapon in its authorized holster. Officer A related that his weapon was fully loaded with Department Authorized ammunition, as well as a live round in the chamber. Officer A related that his firearm qualifications were current, his weapon was registered with the City of Chicago and his Firearms Owner Identification (FOID) card was current. Officer A related a similar account relative to setting up surveillance at the location of 7941 S. South Shore Drive after hearing shots fired in the area. Officer A set his position in shrubbery in the front of the building. From Officer A’s location, he heard Subject 1 state “I hid it up ahead” to Subject 2. Officer A believed that the “it” that Subject 1 was talking about was a gun. Officer A initially lost sight of Subject 1 and Subject 2 because of the shrubbery. Officer A then observed Subject 1 running in Officer A’s direction. Officer A related that Subject 1, whose shirt was lifted up, had his hand in his shirt which allowed Officer A to see the thirty (30) round magazine of the weapon Subject 1 was attempting to conceal under his tee-shirt. Officer A recalled that Subject 1 was wearing a white tee shirt. Officer A detailed that the magazine of the weapon Subject 1 had under his shirt, was approximately six (6) inches longer than the magazine of a semi automatic weapon with regular capacity. As Subject 1 approached Officer A, Officer A announced his

⁸ Officer A’s post firearm discharge alcohol and drug testing results were negative for the presence of alcohol and/or drugs.

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1056933/U#12-33

office and drew his weapon towards Subject 1. At that point, Subject 1 dropped his hand down and pointed the weapon at Officer A. Officer A fired his weapon. Officer A related that his partners were on the scene immediately and the required notifications were made. Officer A described the weapon Subject 1 pointed at him as a silver semi-automatic, with a black thirty (30) round magazine. Officer A related that Subject 1 was still running towards him as he (Officer A) fired his weapon. Officer A fired four (4) times and stopped firing after Subject 1 was on the ground and Officer A no longer believed him to be a threat. Officer A learned that Subject 1 was shot when the fire department arrived on scene. Officer A did not personally speak to fire department personnel. Officer A used the sights on his weapon when he fired and described that he fired in succession. Officer A related that he fired because he was in fear of Subject 1 using the weapon he pointed at him to make good his escape and/or kill him. Officer A estimated that Subject 1 was three to five (3-5) feet from him when he (Officer A) fired.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A was in compliance with Department policy and Illinois State Statutes.

According to the Chicago Police Department's General Order No. 03-02-03, III:

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 believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involved the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm;
 - 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, B, and C of the Area South Gun team were on routine patrol when they heard shots fired in the area. Using their knowledge of the area, the officers set up surveillance in an attempt to establish the identities of the involved subjects and exact location where the shots were fired. From Officer A's surveillance location, he was able to ascertain information relative to a gun based on a conversation between Subject 1 and Subject 2. Officer A observed Subject 1 to have a weapon with an extended magazine exposed, running in his direction and announced his office. Subject 1 produced the firearm from under his shirt and pointed it in Officer A's direction. Subject 1's actions placed Officer A in imminent fear of great bodily harm or death. Subsequently, Officer A discharged his firearm four times, striking Subject 1.

Based on the totality of the circumstances, Officer A's actions were reasonable to prevent death or great bodily harm. This use of deadly force was justified.