

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1057097, U #12-35

INVESTIGATION

NUMBER: Log #1057097/U #12-35

OFFICER #1: “Officer A” (Chicago Police Officer); Male/White; 44 years old;
On Duty; Uniform; Year of Appointment – 1997

**OFFICER’S
INJURIES:** None Reported.

SUBJECT: “Subject 1”; Male/Black; 17 years old

**SUBJECT’S
INJURIES:** GSW to right pelvic area, bullet lodged, and fractured pelvis.
Transported to Christ Hospital. Non-Fatal.

**DATE/TIME
OF INCIDENT:** 15 September 2012 at 2050 hours

**LOCATION
OF INCIDENT:** 7658 S. Wolcott Avenue
Beat 611

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SUMMARY OF INCIDENT:

On 15 September 2012, at approximately 2050 hours, Officer A, Beat 6729E, Officer B, Beat 6729F, Officer C, Beat 6729B, and Officer D, Beat 6729A, responded to a 911 call regarding a man with a gun at 7700 S. Wolcott Avenue. Upon arrival, the police officers observed several black male subjects at a makeshift memorial for an unknown subject in front of Clara Barton Elementary School, located at 7650 S. Wolcott Avenue. One of the subjects, now known as Subject 1, matched the reported description of the offender. The officers attempted to conduct a field interview with Subject 1, but he fled the scene and the officers pursued him. During the pursuit, Subject 1 turned around and pointed a gun at Officer A. Officer A in fear of his life, fired his weapon twice striking Subject 1, who had a bullet lodged in his right buttock and a fractured pelvis.

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Per the **Preliminary Summary Report**, on 15 September 2012, at approximately 2050 hours, Officer A, Beat 6729E, Officer B, Beat 6729F, Officer C, Beat 6729B, and Officer D, Beat 6729A, responded to a 911 call regarding a man with a gun at 7700 S. Wolcott Avenue. Officers A and B were riding together in an unmarked squad car while Officers C and D were riding together in another unmarked squad car. Upon arrival, the officers parked in front of Clara Barton Elementary School, near the corner of W. 77th Street and S. Wolcott Avenue. Officer C's and Officer D's squad car was parked in front of Officer A's and Officer B's squad car. The officers observed several individuals by a vigil in front of the school. Two of the subjects matched the description given in the 911 call. The officers exited their squad cars and requested that the subjects approach them. One of the subjects, now known as Subject 1, started to walk away from the officers.

As Officer A walked toward Subject 1, Subject 1 started to run southwest on W. 77th Street. Officer A then pursued Subject 1 on foot. Officer C also pursued Subject 1 and followed behind Officer A. During the pursuit, Subject 1 turned around and pointed a gun at Officer A. Officer A, in fear of his life, fired his weapon once. Officer B, who was in a squad car parked on the corner of W. 77th Street and S. Wolcott Avenue, reversed the squad car which was going south on S. Wolcott Avenue and then drove forward going west on 77th Street behind Officers A and C. Officer D also got back into his squad car and drove northbound on S. Wolcott Avenue in an attempt to cut off Subject 1.

Subject 1 continued to flee onto the southwest sidewalk of W. 77th Street. At that time, Subject 1 turned around and again pointed a gun at Officer A. Officer A, in fear of his life, also again fired his weapon at Subject 1. Shortly afterwards, Subject 1 stumbled on the sidewalk near a wooden fence located at 7701 S. Winchester Avenue, but got back up and continued running west on 77th Street. Subject 1 then disappeared from the officers' view as he rounded the corner going south on S. Winchester Avenue. The police officers continued to pursue Subject 1 and heard a noise that sounded like metal hitting the concrete. As the officers approached the front of 7701 S. Winchester Avenue, they observed Subject 1 lying prone on the front lawn. At that time, Subject 1 was placed under arrest. Subsequently, the police officers observed that Subject 1 had suffered a gun shot wound. An ambulance responded and transported Subject 1 to Christ Hospital.

Deputy Chief Dana Alexander, #531, stated that Subject 1's gun was recovered on the cemented front porch of 7701 S. Winchester Avenue. IPRA personnel observed the gun that was still on the scene.

No civilian witnesses were identified. Both Subject 1's gun and Officer A's weapon were swabbed for DNA biological material.

LEICA was not performed.

No in-car camera footage of the incident exists.

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The victim, **Subject 1**, did not provide a statement. Multiple attempts were made to contact his attorneys, Attorney A, LLC, and then Attorney B of Willis and Associates.

A canvass of the area at 7700 S. Wolcott Avenue on 16 September 2012 yielded two Witness 1 and a minor, Witness 2.

Witness 1 and **Witness 2 (minor)** were contacted by the R/I on multiple attempts and refused to cooperate with the investigation.

The **Chicago Fire Department Incident Detail Report** documents that CFD paramedics, CFD Paramedic 1 and CFD Paramedic 2 (CFD Vehicle C066), responded to W. W. 77th Street and S. Winchester Avenue on 15 September 2012 at 2054 hours. According to the report, the patient, Subject 1, had a gun shot wound to his right buttock. No exit wound was noted.

Subject 1's Medical Records from **Advocate Christ Medical Center** document that he was admitted on 15 September 2012 with a gun shot wound to his right buttock. According to Subject 1's History of Present Illness, he was shot by police officers. Subject 1's toxicology results show that he had a serum alcohol level of 44 mg/dL¹ at 2130 hours on 15 September 2012. The Discharge Summary Report documents that Subject 1 was also found to have a right iliac fracture and sciatic nerve injury. Subject 1 was discharged on 18 September 2012. He retained a bullet in his pelvis, but non-operative management was chosen.

An **Illinois State Police Laboratory Report** for **RD#HV-477475** dated 21 February 2013 indicates that examination of **CPD Inventory #12717957** one gun (Exhibit #2), one magazine (Exhibit #3), one live cartridge (Exhibit #4) and six live cartridges (Exhibit #5) did not reveal any latent impressions suitable for comparison. The evidence was forwarded to the Firearms Section.

Another **Illinois State Police Laboratory Report** for **RD#HV-477475/CPD Inventory #12717957** dated 23 January 2014 indicates that examination of Exhibit #2, a Bersa gun, model Thunder .380, .380 Auto caliber semiautomatic pistol, serial #B35630, revealed that it was operable as received and fired. The gun displayed rifling of six lands and grooves with a right hand twist. A test fired cartridge from Exhibit #2 was entered into the IBIS database; however, no identification was made. Exhibit #3, one magazine, was used to test fire the gun. No further examination was conducted of Exhibit #4, one unfired cartridge, or Exhibit #5, six unfired cartridges.

109 (3 sets of) **ET Photos** were taken by Evidence Technicians 1 and 2 on 15 September 2012. The first set of photographs depicts Subject 1 lying in a hospital bed and

¹ According to the Medscape website, in order to convert serum ethanol level to blood alcohol content (BAC), move the decimal point three (3) spaces to the left. For example, a 100 mg/dL serum ethanol level is equivalent to a 0.10 (g/dL) BAC, or 0.10% (weight/volume). (<http://emedicine.medscape.com/article/2090019-overview>) Thus, Subject 1's serum ethanol level on the night of the shooting was equivalent to a BAC of 0.044. (Att. 52, pg. 122)

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various pictures of his clothing. There are also photographs of Officer A, the recovered Bersa (Exhibit Marker No. 2), and blood spots on the concrete ground. The final set of photographs depict the crime scene and the makeshift memorial for "Phil."

Attempts to secure possible video from **Clara Barton Elementary School** were met with negative results. Assistant School Principal A related that the school's only operating camera is located on the front entrance and is on real time with no view to the street.

A **PODs** search in the area of the incident was negative.

The **CPD Crime Scene Video** depicts an A-frame home with its front porch light on. Crime scene tape cordons off the area surrounding this home. A marked CPD squad car is parked at the end of the street with its blue lights flashing. Next, the video footage shows a vigil with red and white balloons and candles burning on the ground below a poster which reads "RIP Phil."

The camera then pans the scene at the location of W. 77th Street and S. Wolcott Avenue. Clara Barton Elementary School is located on one corner of the intersection and the rest of the area appears to be residential homes and apartments. The video shows one bullet casing on the street (CPD Marker #1) as well as a black and silver gun (CPD Marker #3) at the bottom of steps which lead up to a house.

CPD Event Queries and **OEMC Transmissions** indicate that a wireless caller stated that a male black wearing a red/black/blue baseball cap and a white polo shirt was armed with a gun. **Event #1225917382** documents that shots were fired by the police and that a male black was shot in the lower back. **Event #1226003077** reports that the arrestee was Subject 1.

Departmental Reports for RD#HV-477475 document that Subject 1 was given five charges, for violations of 720 ILCS 5.0/12-2-A-6 (Agg Assault/Officer/Firearm – Class 4, Type F); 720 ILCS 5.0/24-1.6-A-2 (UW – Weapon – Agg./Public St./Alley/Land – Class 4, Type F); 430 ILCS 65.0/2-A-1 (Firearm w/o Valid FOID/Elig - Class A, Type M); (MCC) 8-24-010 (Weapons Violation Unlawful Use Handgun, Class L); and 720 ILCS 5.0/24-1-A-4 (UW – Weapon – Carry/Possess Firearm/School/Park - Class 3, Type F). No civilian witnesses were documented on the reports.

Officer A's **Tactical Response Report** documents that Subject 1 did not follow verbal directions to drop his weapon, fled, and then pointed a firearm in Officer A's direction, placing Officer A in fear of his life.

Officer A's **Officer's Battery Report** states that a black male with a gun attacked Officer A, but Officer A did not sustain any injuries.

The **Synoptic Report** for Officer A shows that he was not under the influence of drugs or alcohol at the time of the shooting.

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In a **statement to IPRA, Witness Officer C**, stated that on the date of the shooting, he was working Unit 312, Beat 6729B, in plainclothes and an unmarked vehicle. He and his partner, Officer D, responded to a call of a black male with a gun in the area of 7700 S. Wolcott Avenue. The reported suspect was described as wearing a white polo shirt and a red, black, and blue hat. Upon arriving at the scene, Officer C observed there were about a dozen black males and females standing by a makeshift memorial. Two of these individuals matched the reported suspect's description. Officer C stated that he exited his vehicle, announced his office, and called two of the individuals in the group over to the vehicle to conduct field interviews. The individuals asked what was going on and Officer C informed them that they received a 911 call of someone with a gun in the area.

Officer C stated that Officers A and B were in the car behind him and Officer D. He related that Officer A got out of his vehicle and was attempting to interview a black male subject (now known as Subject 1). Officer C reported that Officer A got within a couple of feet of Subject 1, announced "Chicago Police," and then Subject 1 took off running in a southwest direction on S. Wolcott Avenue. As he was fleeing, Subject 1 was holding his right side, leading the police officers to believe that he was armed. Officer A proceeded to pursue Subject 1 on foot and Officer C followed after Officer A. Officer C stated he heard Officer A again announce his office and give Subject 1 a verbal command to drop his weapon.

Officer C was about 10 feet behind Officer A when he heard Officer A fire a single shot from his firearm in Subject 1's direction. Officer C stated that Officer A was approximately 20 feet behind Subject 1 at the time that he fired his weapon. After the first shot was fired by Officer A, Subject 1 continued running westbound on 77th Street. Officer A continued to chase Subject 1 and again yelled, "Chicago Police, drop your weapon!" Officer A fired his gun a second time and Officer C observed Subject 1's pace slow down significantly. Officer C also observed a large black object in Subject 1's hand which appeared to be a gun. The pursuit only went about one block down W. 77th Street, from S. Wolcott Avenue to S. Winchester Avenue, and ended when Subject 1 stumbled and fell to the ground at a home on the southeast corner of W. 77th Street and S. Winchester Avenue (now known as 7701 S. Winchester Avenue). Subject 1 was lying in a prone position on the property's front lawn and his black gun was located on the home's front porch. After being asked repeatedly to show his hands, Subject 1 obliged and was placed into handcuffs by Officer A. Officer C recalled seeing an injury to Subject 1's lower torso area.

In a **statement to IPRA, Witness Officer B**, stated that on the date of the shooting, he was working Unit 312, Beat 6729F, in plainclothes and an unmarked vehicle. His partner was Officer A. Officer B reported that he and Officer A regularly work with Officers C and D as a team. Officer B stated that he and the team responded to a call of a man with a gun at 7700 S. Wolcott Avenue. Upon their arrival to the scene, Officer B immediately observed the black male fitting the 911 caller's description (now

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known as Subject 1). Officer B stated that there was a group of about 8-10 black males and females standing around in the area.

As Officers C and D exited their vehicle and approached the group, Officer B observed Subject 1 begin to distance himself from the group. Officer B, who was driving, told Officer A to get out of the car and grab Subject 1. Officer A got out of the vehicle, while Officer B stayed in the vehicle in order to be able to pursue Subject 1 with the car should he run from Officer A. As anticipated, Officer B stated that Officer A got within two to three feet of Subject 1 when Subject 1 began to flee southbound on S. Wolcott Avenue and then westbound on 77th Street. Officer A began to chase Subject 1 and Officer C chased after them. Officer B observed Subject 1 immediately reach for the right side of his waist.

Officer B was preparing to reverse the vehicle in order to head west on 77th Street when he heard one gunshot. Officer B reported that he looked up and saw Officer A approximately 20 to 25 feet away from Subject 1 with Officer C approximately 10 feet behind Officer A. Officer B was attempting to cut off Subject 1 using the police vehicle when Officer B saw Subject 1 turn his body toward Officer A. Officer A then fired his second shot. Officer B observed Subject 1 stumble and fall down next to the house at 7701 S. Winchester Avenue. Officer B made a left turn onto S. Winchester Avenue and observed Subject 1 lying on the ground with his left hand underneath his body. He also recalled seeing Officer A and Officer C and hearing them state, "Let me see your hands. Let me see your hands." Because he was inside of the vehicle the entire time, Officer B was unable to hear any verbal directions given by Officer A. Officer B does not know who recovered Subject 1's gun, but observed that the semi-automatic silver gun was lying on the front porch of 7701 S. Winchester Avenue.

In a **statement to IPRA, Witness Officer E**, stated that he was assigned to Unit 312 and was working Beat 6727C in an unmarked vehicle on the night of the incident. His partner was Officer F. Like the other officers, Officers E and F responded to a call of a man with a gun at 7700 S. Wolcott Avenue. However, once they arrived at the location, they got a call of shots fired by the police at 7700 S. Winchester Avenue, and thus, diverted to that location.

Upon arriving on scene, Officer E observed Subject 1 lying on front lawn of 7701 S. Winchester Avenue. Officer E approached Subject 1 with Officer A and assisted him in handcuffing Subject 1. He recalled that Officer C was also on scene, covering Subject 1 with his own weapon. Subject 1 was bleeding from his lower back, toward his buttocks. He recalled Officer A instructing Subject 1 to show his hands and that Subject 1 obliged. Officer E then retrieved some latex gloves in order to conduct a pat down of Subject 1. Officer E retrieved Subject 1's identification card from his pocket for purposes of identifying him. At that time, Officer F yelled, "There's the gun! There's the gun!" Officer E observed a small caliber silver and black semi-automatic gun lying on the front porch of 7701 S. Winchester Avenue. Officer E was assigned to ride with Subject 1 in the ambulance to Christ Hospital. On the way to the hospital, Subject 1 uttered, "Man, I just

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found that gun earlier in the grass” and then asked Officer E if he still had a chance to become a police officer.

In a **statement to IPRA, Witness Officer F**, stated that he was assigned to Unit 312 and was working Beat 6727F in an unmarked car with his partner, Officer E. Officer F was the driver of their vehicle. He relayed essentially the same account of the incident as Officer E. Officer F parked their vehicle at the intersection of W. 77th Street and S. Winchester Avenue, facing westbound. He and Officer E then exited the vehicle. Officer F observed Officer A on the sidewalk on the east side of W. 77th Street. Officer E went to assist Officer A while Officer F went further south on S. Winchester Avenue to check for other offenders. Officer F stated that Officers B and C were also on scene. Officer F stated that he was still searching the area for other offenders when he observed a silver and black semi-automatic gun lying on the stoop of the front porch at 7701 S. Winchester Avenue. Officer F stated that he informed the other police officers that he had located the gun and then preserved the gun until Sergeant Vasquez relieved him. He also notified the dispatcher that they recovered the gun and called for EMS. Officer F then followed Subject 1’s ambulance to the hospital.

In a **statement to IPRA, Witness Officer D**, stated that on the date of the shooting, he was working Unit 312, Beat 6729A in plainclothes and an unmarked vehicle with his partner, Officer C. Officer D was the driver of their vehicle. Officer D reported essentially the same account of the incident as Officer C. Officer D stated that he observed Subject 1 take off running as Officer A approached him at W. 77th Street and S. Wolcott Avenue. Officers A and C pursued Subject 1 on foot while Officer D got back into his vehicle, intending to cut through the school and cut off Subject 1 at the next block. Officer D stated that he was in his vehicle with the lights activated when he heard a single shot fired. Approximately three seconds passed and he heard another shot. Officer D reported that as he got to W. 77th Street, he saw Officer A placing handcuffs on Subject 1 in the front yard of 7701 S. Winchester Avenue. Officer D heard Officer F state, “Here’s the gun!” Officer D then observed a black and silver semi-automatic gun lying on the front porch at 7701 S. Winchester Avenue. Officer D observed blood on Subject 1’s buttocks and recalled that Officer F called for an ambulance.

In a **statement to IPRA, Officer G**, stated that he was working Beat 632 in uniform and a marked car on the date of the incident. Officer G stated that he was working with FTO Booren. Officer G related that he and FTO Booren were in the process of responding to the initial broadcast call of a person with a gun in the vicinity of W. 77th Street and S. Wolcott Avenue which changed to a broadcast regarding a police chase of a man with a gun.

When they arrived on scene at 7701 S. Winchester Avenue, Officer G, who was riding as the passenger in the squad car, got out to assist the officers. Subject 1 was already in handcuffs, had already been searched, and was being read his Miranda rights by Officer A. Subject 1 asked Officer G where he was shot. Officer G informed him that he was shot in the upper right side of his buttocks. Officer G then asked Subject 1 why he got shot. Subject 1 replied that he ran from the police and then grabbed his gun and

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tossed it. Subject 1 then pointed out to Officer G where he had tossed the gun. Officer G looked in that direction and saw Officer F already standing over the black and silver gun.

In a **statement to IPRA, Involved Member, Officer A**, stated that he was assigned to Unit 312, Beat 6729E in plainclothes and an unmarked vehicle with Officer B. Officer A reported that upon arriving at 7700 S. Wolcott Avenue, he exited the vehicle while Officer B stayed inside of the vehicle. Officer A explained that they anticipated that Subject 1 would run. Officer A got within six or seven feet of Subject 1 intending to conduct a field interview when Subject 1 took off running in a southwesterly direction. Officer A began to chase behind Subject 1 while yelling, "Chicago Police, drop the gun, drop the gun!" He related that he pulled out his own firearm as soon as Subject 1 gave chase because based on his experience, Officer A believed that Subject 1 had a gun. They ran westbound on W. 77th Street before coming to an alley at S. Wolcott Avenue and S. Winchester Avenue. At the opening of the alley, Subject 1 reached into his waistband. Officer A related that he and Subject 1 were approximately 20 feet apart in the alley when Subject 1 looked over his right shoulder with his gun drawn with his right hand and began to turn around. Officer A then fired the first shot at Subject 1, who was standing approximately in the center of the alley. Subject 1 was by a fence close to S. Winchester Avenue when he again turned, looked over his shoulder, pulled his gun from the front of him, and pointed the gun at Officer A for a second time, as Officer A was still screaming, "Police, drop your gun!" Officer A fired his weapon again. Subject 1 continued to run in a southwest direction. Officer A continued to chase Subject 1 until he collapsed in front of a home at 7701 S. Winchester Avenue. Officer A also observed what he believed to be Subject 1's gun fly from his hand and onto the porch of the home. He first noticed that Subject 1 was struck by a bullet as he was patting him down. Officer A explained that he used the amount of force that he felt was necessary after Subject 1 pointed a gun at him. He related that he did not feel that he had any other options other than pulling the trigger, as he felt that his life and the life of the others officers were in danger.

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CONCLUSION:

The **Chicago Police Department's General Order 03-02-03, Section II**, governing "Department Policy", the order states in relevant part:

- 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."
(Att. 84)

Officer A's actions were reasonable based on the totality of the circumstances. Subject 1 matched the description of a 911 caller's report of a man with a gun. Subject 1, who was standing with a group prior to the police officers arrival on scene, acted suspiciously in that he slowly distanced himself from the group and then fled when Officer A approached him to conduct a field interview. Subject 1 also ignored multiple verbal commands by Officer A to drop his gun, continued fleeing, and then pointed his gun at Officer A, placing Officer A in fear of great bodily harm or death. Subject 1 even told Officer G that the reason he got shot was because he first ran from the police and then grabbed his gun and tossed it. Based upon his actions, Subject 1 posed an imminent threat to Officer A's life and to other police officers and any civilians who might have been in the area. Therefore, Officer A's actions were in compliance with the Department's Use of Force Policy.