

Independent Police Review Authority
Log #1058000 / U #12-39

INVESTIGATION

NUMBER: Log #1058000 / U #12-39

OFFICER

INVOLVED #1 “Officer A” (Chicago Police Officer); Male/White; 28 years old;
On- Duty; Plainclothes; Year of Appointment – 2007

**OFFICER’S
INJURIES:** None Reported

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

**SUBJECT’S
INJURIES:** Gunshot wound to right cheek, Gunshot wound to left shoulder;
Treated at Stroger Hospital

LOCATION: 6700 S. Morgan

DATE/TIME: 25 October 2012; 0215 hours

SUMMARY OF INCIDENT:

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

On 25 October 2012, at approximately 0215 hours, Officers A and B (Beat 706BR) were in their unmarked squad car when they heard several gunshots coming from the area of 67th and Morgan Street. The officers then drove east on 67th St. to investigate the gunshots.

Officer A was the driver and Officer B was the passenger. The officers heard other units on the police radio notifying dispatch of "shots fired." As the officers approached Morgan Street they saw a Chevrolet Aveo with Illinois License Plate XXXXXXXX, being driven by a black male now known as Subject 1, travel north on Sangamon Street and then west onto 67th Street.

As Subject 1's vehicle made the left turn onto 67th Street it "fishtailed" and then drove south on Morgan Street. Officer A and Gentile decided to conduct a traffic stop because of the suspicious manner in which Subject 1 was driving. Subject 1 turned west into the first alley south of 67th Street and came to an abrupt stop.

As the officers exited their vehicle Officer A saw the driver's door of Subject 1's vehicle open. Subject 1 exited the vehicle holding a gun in his hand. Officer A yelled, "Stop! Police! Drop the gun!"

Subject 1 ran west in the alley while still holding the gun in his hand. Officer A pursued Subject 1 on foot while Officer B made contact with Subject 1's two passengers, Witness 1 and Potential Witness 2. As Subject 1 ran west in the alley he turned and pointed his gun at Officer A. Officer A yelled, "Drop the gun!" Subject 1 continued to point his firearm at Officer A. Officer A then discharged his firearm once at Subject 1. Subject 1 turned and continued to run west in the alley. Subject 1 ran several more feet and turned and pointed his firearm at Officer A a second time. Officer A discharged his firearm two more times at Subject 1.

Subject 1 continued to run west, and then south when he reached the "T" intersection of the alley. Officer A lost sight of Subject 1 after Subject 1 ran south in the alley. Officer A slowed down as he cautiously approached the "T" intersection of the alley. Officer A looked south in the alley and saw Subject 1 laying on the ground in the alley at approximately 6715 S. Carpenter Street. Officer A saw Subject 1 throw his gun south from his position. Officer A saw Subject 1's gun "skid" along the pavement in the alley. Subject 1 was then taken into custody. Officer A heard Subject 1 state words to the effect, "It wasn't my gun," and "They told me to run with the gun." Subject 1's two passengers were secured by Officer B, and subsequently by a sergeant who arrived after Officer A chased Subject 1 in the alley.

Subject 1 was transported to Stroger Hospital, where he was treated for a gunshot wound to his right cheek and for a gunshot wound to the rear of his right shoulder.

The ensuing investigation would later show that 1003 W. Marquette was the incident location for the shots fired that the officers were responding to. Eight (8) 9mm shell casings were recovered from this scene. These casings were later examined at the Illinois State Police Forensics laboratory. It was determined that the casings were fired from the firearm found to be in Subject 1's possession.

Subject 1 would later relate to the Cook County State's Attorney's Office that he was running from the police while holding a firearm and that he discarded the weapon after being shot.

INVESTIGATION:

The **Department Reports** list Subject 1 as the offender in this event. The reports further indicate that Subject 1 was shot by CPD Officer A, after he (Subject 1) twice pointed a pistol at Officer A. The Departmental reports are consistent with the summary within this report and the statements provided by the involved officers.

The Medical Records from Mount Sinai Hospital indicates that Subject 1 had been shot once in the right chest and once in the back of his left shoulder. Subject 1 was treated and released into police custody.

The **Tactical Response Reports (TRR'S)** completed by Officer A documented that Subject 1 "did not follow verbal direction," "fled," was an "imminent threat of battery," "attacked with weapon," and "used force likely to cause death or great bodily harm" with a "weapon." The Officer responded with "member presence," "verbal commands," and the use of his "firearm."

The Officers Battery Report completed by Officer A documented that he received no type of injury; though Subject 1 pointed his firearm at Officer A.

The OEMC reports were collected and made part of this case file. An analysis of said documents show no information that is inconsistent with the facts as related by the involved and witness officers.

IPRA Investigators conducted canvasses, in an attempt to locate additional witnesses and/or evidence. No other witnesses to this event were identified.

Illinois State Police Forensic Science Laboratory Reports document the examination of the recovered ballistic evidence in comparison to the firearm belonging to Officer A. It was determined that the three (3) shell casings recovered at the scene of this event were fired from Officer A's Glock model 30, .45 caliber semiautomatic pistol, bearing serial # LHP432.

It was also documented that the Fabrique 9mm pistol found in Subject 1's possession was in proper firing condition. The Fabrique 9mm pistol was test fired in comparison to the eight (8) 9mm casings recovered at 1003 W. Marquette. It was found that the casings were fired from the Fabrique 9mm pistol, bearing serial #06036.

Gun Shot Residue (GSR) tests collected from Subject 1 failed to show the presence of particles indicative of a firearm being fired.

An attempt to interview Subject 1 was made at Stroger Hospital. Subject 1 was being treated for his wounds and could not provide any information to the responding investigators.

An attempt to interview Potential Witness 2, the rear passenger of the vehicle driven by Subject 1, was made. Potential Witness 2 categorically refused to cooperate in this investigation.

In an audio recorded statement to IPRA Witness 1 related that he was the front seat passenger of the vehicle driven by Subject 1 at the time of this incident. Witness 1 related that he, Subject 1, and a third male unknown to Witness 1, had just left a local restaurant when they were pulled over by the police. Witness 1 related that Subject 1 pulled over, exited the driver's side of the vehicle, and fled on foot. Witness 1 related that as Subject 1 fled, the police officer on the driver side of the Chevrolet Aveo fired four (4) consecutive times at Subject 1.

Witness 1 related that Subject 1 continued to flee around the corner, with the officer in close pursuit. Witness 1 related that at that time he lost sight of both parties.

Witness 1 denied any knowledge of Subject 1 being in possession of a firearm. Witness 1 also denied knowing anything about the shooting at 1003 W. Marquette that predicated this event. It is noted by the R/I that the firearm found in Subject 1's possession was linked through ballistics to this shooting, and that the shooting occurred immediately prior to Subject 1's contact with the police.

A certified letter was delivered to Subject 1 requesting that he provide a statement regarding this event, as IPRA was investigating the shooting. Subject 1 failed to respond to the letter and has not contacted the R/I to this date.

An attempt to locate and interview Subject 1 was made. Subject 1 has obtained private counsel and is being represented by Attorney A, of Shiller and Preyar Law Office, located at 1100 W. Cermak Road, Suite B401, Chicago, IL 60608. The R/I has left numerous messages for Attorney A and to date has received no return contact.

Evidence Technician photographs of the scene were obtained and made part of this case file. Evidence Technician photographs documented the scene and are consistent with the information officers related in their statements. It is specifically noted that Subject 1's firearm was recovered within close proximity to where Subject 1 fell after being shot.

In an audio recorded statement to IPRA on 25 October 2012, Officer B related the facts concerning his involvement in this event in a manner consistent with the Departmental Reports and the Summary contained within this report.

Officer B related that as Subject 1 exited his vehicle he was holding a semi-automatic pistol in his right hand. Officer B related that Officer A was giving verbal commands for Subject 1 to drop his weapon. Officer B related that Subject 1 turned towards the officers and raised his weapon, pointing it at Officer A.

Officer B related that the distance between Subject 1 and Officer A was between 10 and 12 feet. Officer B related that when Subject 1 pointed his weapon in Officer A's direction, Officer A fired his weapon. Officer B heard Officer A again command Subject 1 to drop his weapon. Officer B related that Subject 1 continued to hold his weapon in his hand, as he moved to his left. At this time, Officer A fired a second shot.

Officer B related that Subject 1 then continued his flight around the corner into a nearby alley. Officer B stayed with the passengers of the vehicle, Potential Witness 2 and Witness 1, while Officer A pursued Subject 1. Officer B related that after Officer A and Subject 1 were out of his sight, he heard a third gunshot.

Officer B related that additional officers arrived moments later and assumed control of Potential Witness 2 and Witness 1. At that time Officer B ran into the alley, following Officer A. Officer B related that he observed Subject 1 lying on the ground and that he saw a firearm sliding away from Subject 1 on the ground. Officer B heard and saw the weapon slide until it came to a stop.

In an audio recorded statement to IPRA on 26 October 2012, Officer A related the facts concerning his involvement in this event in a manner consistent with the Departmental Reports and the Summary contained within this report.

Officer A related that as Subject 1 exited his vehicle he was holding a semi-automatic pistol in his right hand. Subject 1 began to run westbound and Officer A issued verbal commands to the effect of "Police, drop the gun!"

Officer A advised that as Subject 1 was running from his vehicle he pointed his weapon at Officer A, and in the direction of Officer B. At this time Officer A fired one shot from his service weapon at Subject 1. Subject 1 continued to run towards the alley and Officer A pursued. Officer A related that Subject 1 began to turn towards him again, again with his arm extended and the pistol in his hand. Officer A fired a second shot at Subject 1.

Officer A related that Subject 1 continued to run west into the alley while still holding his firearm in his right hand. Officer A related that after approximately 10-15 feet, Subject 1 turned his torso back towards Officer A, and again raised his firearm and pointed it in Officer A's direction.

Officer A articulated that he could clearly see Subject 1's firearm and was in reasonable fear for his life. Officer A related that he fired one more shot at Subject 1. Subject 1 continued to flee on foot around the corner of the alley. Officer A related that he slowly rounded the corner and found Subject 1 now lying on the ground. Officer A related that he deployed his flashlight, illuminated Subject 1, and instructed Subject 1 to stay on the ground. At that time, Officer A observed Subject 1 use his right hand to slide his firearm on the ground, south through the alley, where it came to rest approximately 10 feet away from him.

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 03-02-03, 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."

Officer A and Officer B were investigating a shots fired incident when they observed Subject 1 driving from the area at a high rate of speed, and in a suspicious manner. When a traffic stop was conducted, Subject 1 exited his vehicle brandishing a 9mm semiautomatic pistol and attempted to flee on foot.

Officer A commanded Subject 1 to stop and drop his weapon. Subject 1 turned towards Officer A and raised his pistol, pointing it in the direction of Officer A. Officer A fired three (3) shots, striking Subject 1 in the right cheek and the left upper rear shoulder.

Subject 1 was taken into custody and his firearm was recovered. Subsequent ballistic tests would show that Subject 1's firearm had been used in the shots fired event that predicated the investigation by Officer A and Officer B.

Subject 1 refused to cooperate with the investigation conducted by IPRA, but did admit to representatives from the State's Attorneys Office that he exited his vehicle holding a firearm.

Officer A was in accordance 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 lifted his arm with a gun and pointed it in his direction. The reports document that there was a high likelihood that Officer A was in danger of “great bodily harm” described in the statute if Officer A did not stop the threat on his life by discharging his weapon.