

INDEPENDENT POLICE REVIEW AUTHORITY

Log 1059342/U# 13-01

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INVESTIGATION

NUMBER: Log #1059342/U#13-01

OFFICER

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 27 years old;
On-Duty; In Uniform; Year of Appointment – 2009

OFFICER’S

INJURIES: Transported to Christ Hospital for observation, minor abrasions to his fingers.

WITNESS

OFFICER: “Officer B” (Chicago Police Officer); Male/White; 29 years old;
On-Duty; In Uniform; Year of Appointment – 2009

OFFICER’S

INJURIES: Transported to Christ Hospital for observation for pain to his left ear from the sound of the discharge of PO Martin’s weapon.

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

SUBJECT’S

INJURIES: One gunshot wound to the stomach; non-fatal.

DATE/TIME: 05 January 2013, 0100 hours

LOCATION: 9400 South Chicago Avenue (Street)

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SUMMARY OF INCIDENT:

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

On 05 January 2013, at approximately 0100 hours, Chicago Police Officers A and B were working beat number "424R." Officer B was the driver and Officer A was the passenger in their marked squad car when they observed a red Jaguar driving southeast on South Chicago Avenue. The driver of the Jaguar, now known as Subject 1, proceeded southbound through a red light at Commercial Avenue. Officer B made a U-turn, activated the emergency lights, and pulled Subject 1's vehicle over on South Chicago Avenue between Commercial Avenue and Harbor Avenue. Officer B approached Subject 1's vehicle on the driver's side, while Officer A approached the passenger's side. Officer A observed a black male, now known as Subject 2, seated in the front passenger seat. The rear windows of Subject 1's vehicle were tinted, but the officers were able to determine there were young kids in the backseat.

Officer B asked Subject 1 to provide his driver's license and vehicle registration. As Subject 1 reached into the center console of the vehicle to obtain his license and insurance, he made repeated suspicious movements towards his waistband. Officer B asked Subject 1 to exit his vehicle, and Officer A ordered Subject 2 to exit as well. While standing at the rear of the Jaguar on the driver's side of the vehicle, Officer B attempted to pat down Subject 1, but Subject 1 prevented him from doing so as he pushed his waist tightly against the vehicle.

Officer B called Officer A's name and asked for assistance as he began to place Subject 1's left hand behind his back. Subject 1 then broke free from Officer B and ran back to the driver's side of the Jaguar. Officer B followed, and attempted to press Subject 1 against the vehicle to prevent him from getting inside. Subject 1 pushed Officer B's hand away and Officer B administered a closed hand strike to Subject 1's head. Subject 1 subsequently re-entered the driver's seat of the Jaguar. Officer A ran and jumped into the passenger's side of the Jaguar in an attempt to stop Subject 1 from placing the vehicle into gear. Officer A observed Subject 1 holding what he believed was a firearm near his waist. Officer A and Subject 1 wrestled for the weapon as the vehicle began to move southeast towards the intersection of South Chicago Avenue and Harbor Avenue. Officer A was then able to un-holster his duty weapon while still struggling to gain control of Subject 1's firearm. Fearing for his life, and for the safety of the children still inside the vehicle, Officer A fired two shots towards the stomach area of Subject 1. The vehicle continued to the northeast corner of Harbor Avenue, where it came to rest on the curb.

Officer B drove the squad car up to the Jaguar. Subject 1 was still fighting with Officer A for control of Subject 1's firearm. Officer A then fired an additional round towards Subject 1 as Officer B approached the driver's side of the Jaguar. Officer A and B gained control of Subject 1's firearm and then pulled Subject 1 out of the vehicle. Subject 2, who had walked down from the original location of the traffic stop, was also

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detained. Officer A and B called a 10-1 during the incident and called for an ambulance as soon as Subject 1 was taken into custody. Subject 1 was transported to Christ Hospital via ambulance. Officer A and B were transported to Christ Hospital for minor injuries.

INVESTIGATION:

The IPRA Preliminary Report and Major Incident Notification Report essentially related the same information as reported in the Summary of Incident of this report.

Attempts to interview Subject 1 were made with negative results. On 05 January 2013, at 0340 hours, IPRA Investigator A conducted a personal visit to Subject 1 at Christ Hospital. IPRA Investigator A was not able to interview Subject 1 at that time. At 1000 hours, IPRA Investigators B and C conducted a personal visit to Subject 1 at Christ Hospital. IPRA Investigators B and C were approached by Chicago Police Officer C, who related that Subject 1 could not be interviewed, since he had yet to be interviewed by the detectives. On 20 February 2013, a certified letter was sent to Subject 1 seeking his cooperation. On 25 February 2013, the R/I received a voicemail from [Female] on behalf of Attorney A, relating that he would not allow his client, Subject 1, to be interviewed. As of the date of this summary, Subject 1 has not contacted IPRA.

According to **Department Reports**, Subject 1 was arrested on 05 January 2013, at 0100 hours, at 9435 South Chicago Avenue, and charged with Attempted Murder, Aggravated Assault with a Firearm, Disobeying a Signal, and Use of a Firearm. The arresting officers were Officers A and B. It is reported that Subject 1 was arrested after pointing a handgun at Officer A.

Officers A and B informed the reporting officers that they curbed a vehicle for a traffic violation. During the traffic stop, Subject 1 defeated arrest, got back in his car, and pushed Officer B to the ground. Officer A entered the vehicle through the front passenger door and attempted to stop Subject 1 from fleeing. Subject 1 then accelerated his vehicle forward as Officer A struggled to gain control of him. During the struggle, Subject 1 pointed a handgun at Officer A, and fought with Officer A, causing minor abrasions to his fingers. Officer A, in fear for his life and the lives of the rear occupants of the vehicle, discharged his duty weapon, incapacitating Subject 1.

According to the **Tactical Response Report (TRR)**, completed by Officer A, Subject 1 did not follow verbal direction, fled, pulled away, was an imminent threat of battery, attacked with a weapon, and used force likely to cause death or great bodily harm with a weapon. Officer A responded with member presence, verbal commands, closed hand strike/punch, and discharge of his firearm.

According to the **Officer's Battery Report (OBR)**, on the date, time and location of the incident, Officer A was in patrol uniform investigating a traffic stop. Subject 1 pointed a revolver in the direction of Officer A. Officer A sustained a non-fatal, minor injury.

According to the **Tactical Response Report (TRR)**, completed by Officer B, Subject 1 did not follow verbal direction, stiffened, fled, pulled away, was an imminent threat of battery, and used force likely to cause death or great bodily harm. Officer B

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responded with member presence, verbal commands, take down/emergency handcuffing, and a closed hand punch/strike.

According to the **Officer's Battery Report (OBR)**, on the date, time and location of the incident, Officer B was in patrol uniform investigating a traffic stop. Subject 1 used his hands/fists to defeat arrest and Subject 1 was in possession of a revolver. Officer B sustained a non-fatal, minor injury.

The **Evidence Technician Photographs** depict the scene of the shooting from various angles. Photographs were taken of Subject 1 on the date and time of the incident, as he had been admitted to Christ Hospital in critical condition.

The photographs also depict multiple pictures of the Titan Tiger Arminius .38 Special Revolver brandished by Subject 1.

The **OEMC and PCAD** reports were obtained 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. Attempts to locate additional independent witnesses were made, to no avail.

IPRA Investigators conducted a canvass, in an attempt to locate additional witnesses and/or evidence. Witness 1 was located and provided a statement to IPRA. It is noted that there is no physical or testimonial evidence that refutes the statements provided by the involved officers.

The **Chicago Fire Department Ambulance Report** documents Subject 1 was located in the street when paramedics arrived at the scene. The narrative section documented Subject 1 appeared to have a through and through gunshot wound to the center of his groin. Subject 1 was transported to Christ Hospital.

The **Chicago Fire Department Ambulance Report** documents Officer B was found ambulatory at the scene. The narrative section documented Officer B had pain in his left ear, and difficulty hearing, after Officer A fired his weapon close to Officer B's ear. Officer B was transported to Christ Hospital.

The **Chicago Fire Department Ambulance Report** documents Officer A was found ambulatory at the scene. The narrative section documented Officer A injured his right knee and mid back while making an arrest. Officer B was transported to Christ Hospital.

Medical Records from **Christ Hospital** document Subject 1 sustained one gunshot wound to his abdomen and one gunshot wound to his buttocks.

Illinois State Police (ISP) Forensic Science Laboratory Reports document the examination of the recovered ballistic evidence, in comparison with the firearm

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belonging to Officer A.¹ Officer A's firearm was tested and found to be in proper firing condition. Based upon analysis of ISP Reports and Forensic Reports, it was determined that Officer A fired three times. The shell casings and fired bullet were compared to Officer A's firearm and found to match his weapon.

The **ISP lab reports** further document the weapon recovered from Subject 1, a Titan Tiger revolver, was test fired and found to be in firing condition. There was no blood indicated and the weapon did not reveal any latent prints suitable for comparison.

In his statement to IPRA on 05 January 2013, Subject 2 stated his friend, now known as Subject 1, picked him up from a bus stop by 79th Street and East End Avenue. Subject 2 was riding in the front passenger seat, while Subject 1 was driving the vehicle. There were three children seated in the rear seat of the vehicle. As they were driving, the vehicle was stopped by a Chicago Police squad car. Subject 2 was told by one of the officers to exit the vehicle and place his hands on top of the car, and Subject 2 complied. Subject 1 was also outside of the vehicle, but suddenly ran away from an officer and got back into the driver's seat. Both officers ran towards Subject 1 and got inside the vehicle along with Subject 1. The vehicle accelerated forward and then hit a curb. Subject 2 ran towards the car where an officer placed him under arrest. Subject 2 heard a "boom" when the car hit the curb, but could not tell if it was a gunshot or the sound of the car hitting the curb.

In his statement to IPRA on 07 January 2013, Witness 1 stated he was inside his apartment located at XXXX S. Baltimore Street when he observed a Chicago Police squad car stop a vehicle on South Chicago Avenue. Witness 1 observed a police officer talk to the driver of the vehicle, now known as Subject 1. Subject 1 and the passenger, now known as Subject 2, exited the vehicle. The officer ordered Subject 2 to stand on the grass away from the vehicle. Moments later, Witness 1 heard the officer repeatedly yell at Subject 1 to stop. Subject 1 jumped into the car. Witness 1 then heard two gunshots in rapid succession, but did not see anyone holding a gun. The car Subject 1 entered accelerated and crashed by a traffic signal about a block away. The officer got into his squad car and followed the vehicle while Subject 2 approached the vehicle on foot. Several squad cars arrived at the scene, and Subject 2 was arrested. Witness 1 did not see Subject 1 get out of the vehicle until an ambulance arrived at the scene. Witness 1 said he did not observe a second officer at the scene and did not know if another officer was involved in the incident.

In his statement to IPRA on 06 January 2013, Officer A stated he and his partner, Officer B, were driving northwest on South Chicago Avenue when they observed a red Jaguar traveling in the opposite direction that failed to stop at a solid red light. Officer B made a U-turn, got behind the red Jaguar, activated the emergency equipment and pulled the vehicle over. Officer A and B approached the vehicle, observed children in

¹ It should be noted there were thirteen unfired bullets inside Officer A's gun. One fired bullet along with three expanded shells were collected from the scene.

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the backseat, a male seated in the front passenger seat, and a male seated in the driver's seat.

Officer A was on the passenger side of the vehicle and heard Officer B ask the driver, now known as Subject 1, for his license. Officer A then heard Officer B order Subject 1 out of the vehicle, which he complied. Officer B walked Subject 1 to the rear of the vehicle while Officer A ordered the front passenger, now known as Subject 2, out of the vehicle with his hands up. Officer A then heard Officer B yell "[First Name]!" Officer A looked over and observed Subject 1 pull away from Officer B as he was attempting to handcuff him.

Subject 1 ran and re-entered the driver's seat of the Jaguar. Officer A, who was still at the passenger's front door, lunged into the vehicle in an attempt to stop Subject 1 from fleeing. As Officer A entered the vehicle, he observed Subject 1 reach with both hands to his waistband. Fearing that he was possibly reaching for a weapon, Officer A attempted to defeat Subject 1 from producing whatever was in his waistband. At some point during the struggle, Subject 1 managed to get the car into drive and the vehicle began to roll forward. Officer A kept his left hand on top of Subject 1's hands and began to strike Subject 1 in the face with his right fist and yelled repeatedly at him to stop the car. Subject 1 brought a weapon, now known as a .38 revolver, out of his waistband and pointed it towards Officer A. Officer A pushed the revolver out of his direction and towards Subject 1. Officer A repeatedly ordered Subject 1 to drop the weapon and stop the vehicle.

Officer A was in fear for his life, and for the lives of the children who were still seated in the back seat. Officer A took his weapon out of his holster, placed it against Subject 1's lower stomach and angled it in a direction in which it would not come into contact with any of the children. Officer A fired his weapon twice, and then fired a third time, but his pistol malfunctioned and failed to discharge.² The car then came to a stop. Officer A took his gun, which was in his right hand, and repeatedly struck Subject 1 in his face and head. Officer A used his left hand to push the revolver against Subject 1's upper body and they continued fighting each other. Several seconds later, Officer B approached the vehicle. Officer A continued to strike Subject 1 on the head when his pistol inadvertently discharged a third time. Officer A looked up and saw Officer B grab his left ear and fall backward toward the pavement. Moments later, Officer A saw Officer B stand up and realized Officer B had not been shot and was not injured. Officer A was finally able to wrestle the revolver away from Subject 1. Officer B removed Subject 1 from the vehicle and placed him into custody.

Officer A exited the vehicle and observed Subject 2 approaching the vehicle on foot. Officer A placed Subject 2 into custody. Officer B made notification and called for an ambulance.

² The ISP lab report documents Officer A's pistol was test fired and found to be in firing condition.

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In his statement to IPRA on 05 January 2013, Officer B essentially related the same information as his partner, Officer A. Officer B stated when he ordered Subject 1 to step to the back of the vehicle Subject 1 stepped side to side with his body pressed against the vehicle, which he thought was abnormal. Once at the rear of the car, Officer B began to pat down Subject 1. When Officer B placed his hand over Subject 1 right pocket, Subject 1 began to jerk away. Subject 1 defeated arrest, ran to the front of the car, and re-entered the driver's seat.

Officer B followed and tried to stop Subject 1 from fleeing by performing closed hand strikes to Subject 1's head. Officer A subsequently entered the vehicle on the passenger's side and was attempting to gain control of Subject 1's hands. The vehicle began to accelerate forward, causing Officer B to lose his footing and fall to the ground.

Officer B radioed he had an emergency and needed assistance at his location. Officer B ran back to his squad car, entered and began to pursue Subject 1's vehicle. While in pursuit, Officer B heard multiple gun shots. The vehicle came to a stop and Officer B approached the driver's door on foot. Officer B looked inside the vehicle and observed Officer A struggling to gain control of a revolver that was in Subject 1's hand. There was another gunshot and Officer B fell to the ground, thinking he had been shot. Officer B stood up and observed Officer A now had complete control of the revolver. Officer B removed Subject 1 from the vehicle, placed him into custody, and laid him on the ground.

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CONCLUSION AND FINDING:

On 05 January 2013, Officers A and B conducted a traffic stop at 9400 South Chicago Avenue. During the course of their investigation, the officers came in contact with the subject, Subject 1.

Subject 1 pointed a revolver in the direction of Officer A. Officer A gave Subject 1 verbal direction to drop the weapon. In fear for his life, Officer A discharged his weapon, striking Subject 1 multiple times. The revolver was recovered at the scene.

Officer A related after he discharged his pistol twice, Subject 1 continued to fight. Officer A attempted to discharge his pistol again and it failed to fire. Officer A, believing his pistol had malfunctioned, used his pistol as an impact weapon to strike Subject 1 about the face and head. Subsequently, Officer A's pistol discharged a third time in the direction of Officer B. Officer A's use of his pistol as an impact weapon was a reasonable force option given the circumstances.

The facts and circumstances surrounding this event show that Officer A was in compliance with the statute "to prevent death or great bodily harm to the sworn member or to another person" as he reasonably believed his life was in imminent danger when Subject 1 pointed a firearm in his direction.

Based on the totality of the facts and circumstances, the Reporting Investigator finds that an officer with similar training and experience as Officer A would reasonably believe Subject 1 posed an immediate threat to his safety. The R/I finds the use of force by Officer A was therefore objectively reasonable and within policy as outlined by the Use of Force Model; the Illinois State Statute; and the Chicago Police Department's General Order 03-02-03, III, which states:

- 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;

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- c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.”