

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1062871/U#13-21

INVESTIGATION

NUMBER: Log #1062871/U #13-021 [originally numbered "U#13-022"]

INVOLVED

OFFICER: "Officer A" (Chicago Police Officer); Male/Hispanic; 37 years old; On- Duty; Uniform; Year of Appointment – 2003

OFFICER'S

INJURIES: None reported.

WITNESS

OFFICER: "Officer B" (Chicago Police Officer); Male/White; 43 years old; On- Duty; Uniform; Year of Appointment – 1998

WITNESS

OFFICER: "Officer C" (Chicago Police Detective); Male/White; 47 years old; On- Duty; Uniform; Year of Appointment – 1997

SUBJECT: "Subject 1"; Male/White; 16 years old

SUBJECT'S

INJURIES: Gunshot wounds to left elbow [fracture] and left thigh; stable condition at Illinois Masonic Hospital.

RECOVERED

WEAPON: Wooden 2x4 board with protruding nails

DATE/TIME: 14 June 2013, approximately 0029 hours

LOCATION: 4436 N. Mulligan, in gangway on north side of this address, Beat 1622

TIME OF IPRA

NOTIFICATION: Approximately 0040 hours on 14 June 2013.

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SUMMARY OF INCIDENT:

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

Officers A and B, working Beat 1622R, in uniform and in a marked Chicago Police Tahoe, were northbound on Narragansett Avenue, when they observed three males standing in the east-west alley just north of Montrose Avenue. Officer A stopped the squad car in the east-west alley, and he and Officer B exited their vehicle. The officers initiated contact with the three males in the alley. Officer A obtained identification from Subject 1, while Officer B obtained identification from Witness 1 and Witness 2. Officer A returned to the Tahoe to run Subject 1's information and Subject 1 fled east, on foot through the alley. Officer B pursued Subject 1 on foot, while Officer A followed in the police car. Officer A, still driving the marked Tahoe, passed Officer B as he continued chasing on foot. Officer A observed Subject 1 turn west and run along the north side of 4447 North Mobile Avenue. Officer A continued in the marked Tahoe until he reached West Sunnyside Avenue.

Officer A turned south on Mobile Avenue, stopped his vehicle, and then pursued Subject 1 on foot. Officer A observed Subject 1 run along the south side of 4446 North Mobile Avenue. Subject 1 jumped over a gate into the north-south alley west of Mobile Avenue and ran south. Officer A gave verbal commands to stop; however, Subject 1 continued to flee. Subject 1 then attempted to scale a gate, but a 3-4 foot, 2x4, with nails sticking out from it, broke loose from the top of the wooden gate. Subject 1 held the 2x4 up in his hands as Officer A approached him. Officer A ordered Subject 1 to drop the 2x4. Subject 1 stepped toward Officer A with the 2x4 raised up in his hands. Officer A drew his weapon, which had been holstered, and fired three rounds striking Subject 1 in the left thigh and left elbow, causing Subject 1 to fall. Officer A was not struck by the board. Officer B arrived on the scene approximately 15 seconds later. Officer B did not witness the shooting. Subject 1 was taken into custody and transported to Illinois Masonic Hospital in stable condition.

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The **Department Reports** (RD #HW317699, Event #1316500357, CB #018680721) related Subject 1 was arrested for Aggravated Assault to a police officer with a weapon on 14 June 2013, at the location of 4436 N. Mulligan Avenue. The incident narrative of the report, in essence, related the same information that was obtained during the walk through of the scene.

A **Tactical Response Report** completed by Officer A documented Subject 1 “did not follow verbal direction,” “fled,” was an “imminent threat of battery,” and used “force likely to cause death or great bodily harm” with a “weapon.” Officer A responded with “member presence,” “verbal commands,” and the use of his “firearm.” The report documented that Officer A was within 0-5 feet of Subject 1 when he discharged his firearm. The narrative documented “Officer A fired his weapon in fear for his life after Subject 1 advanced towards him with a 2x4 with the intentions of striking him.”

The **Officer’s Battery Report** for Officer A documented he did not receive any injuries during the incident.

The Chicago Fire Department **Ambulance Report** documented Subject 1 was found lying in the backyard of a house located at 4510 N. Melvina Avenue, with two gunshot wounds. A through and through gunshot wound was located on his left elbow and a second gunshot wound was located near his left femoral area. Subject 1 was transported by Ambulance 20 to Illinois Masonic Medical Center.

Multiple attempts to obtain a statement from **Subject 1** were unsuccessful. On 17 June 2013, IPRA Investigator A attempted to interview Subject 1 when he was present at Illinois Masonic Medical Center. Upon arrival, IPRA Investigator A learned Subject 1 was a minor and could not be interviewed without a parent or legal guardian. Several telephone calls to Subject 1’s parents went unanswered and voicemails were not returned. On 18 June 2013, the R/I mailed a certified letter to the family of Subject 1 detailing the investigation into the police involved shooting. On 12 March 2015, the R/I mailed a certified letter to Subject 1’s attorney, Attorney A, seeking the cooperation of Subject 1. On 20 April 2015, Attorney A contacted the IPRA and related Subject 1 would not provide a statement relative to this investigation.

Medical Records for Subject 1 from Illinois Masonic Medical Center (Record #IMC-009076005) documented Subject 1 was admitted to the emergency room on 14 June 2013 at 0154 hours for gunshot wounds to the left thigh and left elbow. Subject 1 was treated at the hospital by Doctor A. Upon admission into the hospital, the records documented Subject 1 was intoxicated. A CAT scan was conducted on Subject 1 and found bullet fragments in his left elbow and left thigh. Surgery was performed to remove the fragments from Subject 1. Subject 1 was discharged from the hospital to the care of his parents on 18 June 2013.

A **Canvass** was conducted on 14 June 2013 near the location of 4442 N. Mulligan Avenue. IPRA Investigator B reported that no individuals were located who witnessed the incident in question.

A **Crime Scene Processing Report #226880** documented items inventoried and photographs obtained by the Evidence Technicians at the scene. The report also documented

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Officer A's weapon was recovered in the presence of CPD Deputy Chief A, CPD Lieutenant 1, and CPD Sergeant 1 at the Area North Detective Division. The report was submitted by Officer D.

The **Evidence Technician Photographs** documented the crime scene, evidence including photographs of a 2x4 and Subject 1's injuries.

Illinois State Police Forensic Science Laboratory Reports documented under Lab Case #C13-024066, Officer A's firearm was tested and was in proper working condition. The unfired cartridges were analyzed for caliber and type only. The three fired cartridge casings recovered from the rear yards of 4436 and 4442 N. Mulligan Avenue were fired from a Smith and Wesson; model MP 45, .45 caliber semiautomatic pistol. This firearm tested in this investigation was registered to Officer A.

A search for **Police Observation Devices (PODS)** in the vicinity of the alleged incident was met with negative results.

A search for **In Car Camera Video**, from Beat 1622R, was met with negative results.

The related **Event Queries** documented at 0029 hours, on 14 June 2013, a police officer reported shots fired by the police at 4436 N. Mulligan Avenue. At 0031 hours, an ambulance was requested to the scene.

The **Detectives Supplementary Report** documented on 14 June 2013, at approximately 0035 hours the Reporting Detectives (R/D) were assigned to investigate a police involved shooting that occurred at 4436 N. Mulligan Avenue. The R/D's related, in essence, the same information that was learned during the walk through of the scene.

CPD Detective 1, interviewed Subject 1 on 14 June 2013, at 0150 hours, in the emergency room of Illinois Masonic Medical Center. Subject 1 related earlier on the night of 13 June 2013, he drank eight Miller Lite beers and smoked twenty dollars worth of cannabis. Later in the evening, Subject 1 was approached by two police officers. Subject 1 became paranoid because he smoked cannabis, so he ran from the officers. Subject 1 related he attempted to jump a fence, but the top board of the fence came loose. Subject 1 grabbed the board and held the board with both hands in a fashion as if he was holding a Lacrosse stick. Subject 1 related he spun around, faced the officer and the officer shot him and he dropped the board.

The Reporting Detectives also interviewed witness, Witness 1. Witness 1 stated on 13 June 2013, he went to Subject 1's residence, located at XXXX N. Melvina Avenue, to watch the NBA finals. Witness 1, Subject 1 and Witness 2 consumed Miller Lite beers in the garage. After the basketball game finished, all three of them walked to the convenience store located at Nagle and Montrose to buy some food. Witness 1 related to the R/D's that they were walking back from the store through an alley when they were stopped by two police officers in a marked squad car. The officers exited their squad car and asked everyone for their identification. Witness 1 related he and Witness 2 each handed over their driver's license to the officers. Witness 1 related to the R/D's that Subject 1 told the officers that he did not have any identification. Witness 1 related Subject 1 then fled and the officers pursued him. Witness 1 and Witness 2 stayed in the alley until another squad car arrived and informed the officers that

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Subject 1 ran from the other officers. Witness 1 did not observe the police involved shooting.

In an audio recorded statement to IPRA, on 14 June 2013, **Witness 2** related earlier in the day he attended lacrosse practice with his friend, Subject 1. After practice, he and Subject 1 hung out for several hours and then met up with a mutual friend, Witness 1. Witness 2, Subject 1 and Witness 1 walked to the BP Gas Station at Narragansett and Nagle to buy some food. Witness 2 related they left the BP Gas Station and walked back through an alley, headed towards Subject 1's house, when they were stopped by the police. The officers, now known to be Officers A and B exited their squad car and asked for everyone's identification. Witness 2 and Witness 1 produced their identification cards, but Subject 1 told the officers that he didn't have his. Witness 2 related Subject 1 seemed nervous and one of the officer's began questioning him about why he didn't have his identification card with him. Witness 2 related the officer then turned around and when he did, Subject 1 ran down the alley. Witness 2 did not observe the police involved shooting.

In an audio recorded statement to IPRA, on 14 June 2013, **Witness Officer C**, related he was off-duty and was sleeping in his bedroom at his residence located at XXXX N. Mulligan Avenue. Officer C related he woke up to someone yelling, "Drop it! Drop the board," which was coming from the south side of his house. A few seconds later, Officer C heard what he thought were three gunshots coming from the south side of his house. Officer C went downstairs and exited his residence through his back door and stepped on to his deck. Officer C observed the subject, now known to be Subject 1 lying on the ground saying he was shot. Officer C also observed a police officer, now known to be Officer A, standing over Subject 1. Officer C related Subject 1 asked for an ambulance and Officer A related that he already called for an ambulance. Officer C did not observe the police involved shooting.

In an audio recorded statement to IPRA, on 14 June 2013 at 0641 hours, **Witness Officer B**, related he was in uniform, assigned to Beat 1622R, and partnered with Officer A. While on patrol, Officer B observed three subjects in an alley just north of Montrose Avenue, between Mulligan Avenue and Mobile Avenue. Officer B related they stopped the subjects and began to conduct a field interview by requesting to see their identification. Officer B related one of the individuals, now known to be Subject 1 did not have any identification on him. Officer B related he was about to write Subject 1's name down on a piece of paper when Subject 1 fled on foot. Officer B pursued Subject 1 on foot until he lost sight of him when Subject 1 entered one of the yards between 4430 and 4440 N. Mobile Avenue. Officer B continued to search for Subject 1 and made his way to the vicinity of 4436 N. Mulligan Avenue. Officer B related he was on the east side of the street, coming from a yard, when he heard Officer A yell, "Drop it, Police!" Officer B then heard three gun shots in rapid succession. Officer B proceeded to the vicinity of the gangway near 4436 N. Mulligan Avenue, where he heard Officer A giving verbal direction to someone. Officer B observed Subject 1 lying on the ground with a gunshot wound to his left thigh. Officer B related when he walked into the gangway there was a piece of wood lying near a wooden fence gate. The piece of wood was between three to four feet long and had numerous rusty nails along the length of it. Officer B did not observe Officer A discharge his weapon and he did not observe what led up to the shooting of Subject 1.

In an audio recorded statement to IPRA, on 15 June 2013, **Involved Officer A**, related he was in uniform, assigned to Beat 1622R, and partnered with Officer B. Officer A stated they were traveling northbound on Narragansett Avenue when they observed three white males,

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assumed to be juveniles, walking down the east alley of Narragansett Avenue. Officer A drove their squad car to where the three males were located. Officer A stopped the three males, exited his squad car, and he and Officer B approached the three males on foot for a field interview. Officer A related he obtained identification from one of the individuals and walked back to his squad car to run the identification through the computer. As Officer A sat down in the squad car, he observed one of the males, now known to be Subject 1, flee on foot from Officer B, who began pursuing him on foot. Officer A related he followed behind Officer B in his squad car. Officer A eventually passed Officer B and continued to follow Subject 1 northbound in the alley, near Sunnyside Avenue. Officer A related Subject 1 made a left turn and jumped a fence. Officer A proceeded down Sunnyside Avenue and made a left turn onto Mobile Avenue, where he observed Subject 1 run in front of his squad car.

Officer A related he exited his squad car and engaged in a foot pursuit through several yards eventually ending up on Mulligan Avenue. Officer A stated during this time, he repeatedly yelled, "Stop! Police, stop!" Officer A related while on Mulligan Avenue, Subject 1 ran through a gangway and approached a six and a half foot wooden fence. Officer A indicated Subject 1 grabbed the top of the fence to pull himself over and when he did that, a piece of the fence, a 2x4, broke and Subject 1 fell to the ground with the piece of wood. Officer A stated Subject 1 stood up and held the piece of wood, which had several nails sticking out of it, as if it was a baseball bat. Officer A ordered Subject 1 to drop the piece of wood, which he failed to do. Officer A related he was three to four feet away from Subject 1 when Subject 1 stepped towards him and attempted to strike him with the piece of wood. Officer A related he was in fear for his life, and in fear of receiving great bodily harm, so he un-holstered his firearm with his left hand and fired two shots at Subject 1. Officer A related Subject 1 dropped the piece of wood on the side of the fence where he was standing and then Subject 1 fell to the opposite side next to a chain link fence. Officer A made an OEMC Notification that shots were fired and he requested an ambulance be sent to his location.

Officer A approached Subject 1 and observed gunshot wounds to his left thigh and to his left elbow. Officer A began questioning Subject 1 about his actions. Officer A related Subject 1 told him that he just meant to scare him with the 2x4 and that he ran because he had just smoked some marijuana. Officer A learned after the Crime Lab arrived on scene, that he fired three shots total, instead of two that he previously had reported.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by the involved Chicago Police Officers 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."

Subject 1 admitted to Detective's that he had been drinking beer and smoked marijuana prior to the incident. Subject 1's friends admitted to drinking beer at Subject 1's residence. Subject 1 admitted that he fled from the officers because he had smoked marijuana. Subject 1 stated to Detective's that when he attempted to jump a wooden fence, a board broke off and he held it like a lacrosse stick.

There were no independent witnesses to the shooting of Subject 1 and no video was located. Individuals reported they heard an individual telling someone to "drop the board," prior to hearing gunshots. The available reports document Subject 1 failed to comply with the officers verbal commands. The evidence indicates Officer A was in compliance with the use of force policy "to prevent death or great bodily harm to the sworn member or to another person" because he reasonably believed that his life was in danger when Subject 1 held a 2x4 in a threatening manner. The available reports document that there was a high likelihood that Officer A was in danger of "great bodily harm" if he did not stop the potential threat upon his life by discharging his firearm.