

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1062909/ U # 13-22

INVESTIGATION

NUMBER: U # 13-22/ Log# 1062909

INVOLVED

OFFICER: “Officer A” (Chicago Police Officer); Male/White; 46 years old;
On- Duty; In Uniform; Year of Appointment – 2006

OFFICER’S

INJURIES: None reported.

WITNESS

OFFICER: “Officer B” (Chicago Police Officer); Male/White; 37 years old;
On- Duty; In Uniform; Year of Appointment – 2010

SUBJECT: “Subject 1”; Male/Black; 24 years old

SUBJECT’S

INJURIES: Gunshot wounds to right hand and middle of upper back; pronounced dead
on the scene.

LOCATION: 16 June 2013, approximately 0233 hours
In alley behind 1658 S. Springfield

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SUMMARY OF INCIDENT:

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

On 16 June 2013, at approximately 0233 hours, Officers A and B, working Beat 1014R, were on patrol in a marked SUV. Officer B drove the car. The officers observed a silver Chevrolet Venture van parked on 16th Street near Millard, an area known for high narcotics activity. The van erratically pulled into traffic, and drove south on Springfield. Beat 1014R activated the emergency equipment to effect a stop. The car pulled to the side as if to stop, and then pulled back into the street, and continued this pattern while driving south on Springfield. The officers observed the passenger-side sliding door open. Just before the van reached 18th Street, the subject, now known to be Subject 1, exited through the sliding door of the van and ran south on the west side of Springfield. The officers observed Subject 1 carrying a semi-automatic firearm in the rear waistband of his pants. The officers radioed that they were in pursuit of a subject who was in possession of a firearm.

Subject 1 ran west on 18th Street and turned north into the alley paralleling Springfield. Officer B followed Subject 1's path in the SUV. Upon turning north into the same alley as Subject 1, the officers observed Subject 1 on the ground directly behind the garage of the house located at 1659 S. Harding Ave. While Subject 1 was on the ground, he placed his right hand on his weapon and began to turn towards the officers. Officer A exited the SUV, and with one foot on the ground, while using the SUV passenger door as cover, ordered Subject 1 to "stop." Subject 1 did not comply, and Officer A fired two rounds striking Subject 1 once in the right hand and once in the center of his back between his shoulder blades. When the officers approached Subject 1 to take him into custody, he began to move, causing Officer B to grab the semi-automatic weapon, which was still in Subject 1's possession, and toss it several feet east of Subject 1.

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Department Reports (Case Incident Report and Case Supplementary Report) related to RD# HW 320788 document the involved officers, the Department Members who responded to the scene and the time and to whom notifications were made. A supplemental report completed by CPD Sergeant A documents a discrepancy in the weapon documented in the TRR completed by Officer A. The weapon used in this incident is inventoried under # 12931159. The weapon mistakenly listed on the TRR is owned by Officer A, but was not the weapon used in this incident

A **Tactical Response Report (TRR) and Officer's Battery Report (OBR)**, completed by Officer A, documents that Subject 1 was a passive resister (did not follow verbal direction) who became an active resister (fled) who escalated to an assailant/deadly force, when he grabbed a 9mm semi-automatic firearm from his rear waistband placing the officers in fear for their lives. Officer A responded with member presence, verbal commands, and discharged his department authorized weapon two times. The only two officers present at the time of the incident were Officer A and his partner, Officer B.

A **Tactical Response Report (TRR) and Officer's Battery Report (OBR)** completed by Officer B described Subject 1's actions in a manner consistent with the report completed by Officer A. In response, Officer B utilized member presence and verbal commands.

A **certified letter** was sent to the family of Subject 1, in care of Subject 1's mother notifying them that the Independent Police Review Authority would be conducting an investigation into the shooting.

On 16 June 2013 at approximately 0400 hours, **IPRA Investigator A responded to the scene**. The information he obtained is consistent with the Department Reports for this incident and is documented in his to/from report. Additionally, IPRA Investigator A spoke with Subject 1's mother. Subject 1's mother was with two individuals, a black male and a black female, who related that they witnessed the incident, but refused to provide contact information. The individuals related that they would provide their personal information to Subject 1's mother. The R/I spoke with Subject 1's mother who declined to give the R/I the contact numbers for the witnesses. Subject 1's mother also declined to give her attorney's full name or contact information to the R/I. She took the R/I's contact information and related that she would give it to her attorney who would contact the R/I. To date, the R/I has not been contacted by Subject 1's mother or her attorney.

A **Canvass** conducted on 16 June 2013, did not produce any witnesses to the incident. Several people heard shots fired, but did not go outside nor did they observe the actions any of the involved individuals.

The **CPD Forensic Services Division** Records (Crime Scene Processing Report, Video of the Scene and Evidence Technician Photographic Records) were obtained and incorporated into this investigation. Photographs taken on 16 June 2013, by Officers C and D, depict photographs of the scene and photographs of the involved officers and their respective weapons

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and ammunition. There are multiple photographs of Subject 1, who is depicted lying on his stomach and handcuffed behind his back. What appears to be a gunshot wound is visible on his upper back, between his shoulders. There is a significant amount of blood in the area of the injury. Subject 1 is also depicted lying on his back. Blood is visible on the right side of his face and on his t-shirt and chest. There is also a large injury, what appears to be a graze wound, on his right hand. There are several photographs of a black gun, located several feet away from his body, near the wall of the alley. A black handgun, a magazine, and two fired cartridge cases were found at the scene and inventoried. Officer A's weapon (Smith and Wesson semi-automatic pistol) and 13 cartridges were also recovered and inventoried.

The **Detective Supplementary Report** documented information consistent with other Department Reports related to this incident. The report did not list any witnesses to the incident.

Illinois State Police Forensic Science Laboratory Reports documented under Laboratory Case #C-13-023405, document that a Ruger, model P95 Luger semiautomatic pistol (Serial #317-95561) was found to be in firing condition. The weapon was compared to the IBIS database, but no identification was made. This weapon, the magazine and the eight (8) live cartridges did not reveal latent impressions suitable for comparison. A Smith & Wesson, model 5943, 9mm Luger semiautomatic pistol (Serial #BDK5653) was also found to be in firing condition.

POD # 129 located at 1801 S. Harding did not capture any images of evidentiary value relative to this investigation.

The related **Office of Emergency Management and Communications OMEC Event Queries and Recordings** were obtained and incorporated into this investigation. An analysis of the transmissions and documents did not reveal any information that was inconsistent with the facts contained in the Summary of the Incident and the accounts of Officers A and B.

The Report of Postmortem Examination¹ completed by Doctor A on 16 June 2013 at 0900 hours, documents Subject 1 sustained two gunshot wounds; a distant range graze wound on his right hand and a distant range gunshot wound on his mid-superior back. Subject 1 also presented with several abrasions to his extremities and scars from possible prior gunshot wounds and abdominal surgery. Subject 1's toxicology report was negative. The cause of death was determined to be multiple gunshot wounds and the manner of death was classified as a homicide.

IPRA Investigator B attended the **Postmortem Examination** of Subject 1. Her observations are documented in her to/from report dated 16 June 2013.

In an audio recorded statement with IPRA on 16 June 2013, Witness Officer B, related that he and Officer A were in uniform and assigned to a marked squad car.² Officer B

¹ Photographs of the autopsy are included as an attachment to this investigation.

² The squad car was equipped with an in-car camera that was not functional that day. A request was made for the in-car camera footage from Beat 1014R (Officers A and B), Vehicle # 8824, but no video was available. A repair order for the in car camera was requested, prior to the shooting, and is documented under repair ticket # 4468966

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drove south on Millard towards 16th Street when he heard noise. As they approached 16th Street, he observed a Chevy minivan, either tan or silver in color, parked in front of a convenience store. There were several pedestrians on the sidewalk. As the officers came into view, one of the individuals yelled “lock it, lock it.”³ The individual then signaled with his hand for the van to drive. Officer B announced the van over the air. The van pulled from a parked position at a high rate of speed without signaling. The officers followed the van down 16th Street to Springfield, where it turned south onto Springfield. After approximately a minute and a half, Officer B activated his emergency equipment. The van pulled over slightly, as if it was going to stop, but then pulled back into the lane and continued to drive. The van did this multiple times. Officer A related that the back passenger door had opened and he thought someone was going to get out and run. Officer A radioed their location and what was occurring. Officer B pulled over enough to enable him to see the back passenger door that was open. Shortly before they approached 18th Street, one of the passengers, now known to be Subject 1, exited the car and fled on foot. As Subject 1 exited the car, Officer B observed a black handgun sticking out of the rear right-hand side of his waistband. The street was artificially lit and the visibility was good. Officer B went on air and announced that the individual had a gun.⁴ Subject 1 ran a short distance south on Springfield and turned westbound onto 18th Street. He then ran into the first alley on the west side of Springfield. Officer B drove and kept Subject 1 in front of the car as they pursued. Officer A gave Subject 1 multiple commands to stop and announced his office. Officer B also gave him verbal commands to stop. Subject 1 turned north in the alley and ran at a high rate of speed. Subject 1 then lost his footing and fell flat onto the ground. As the officers pulled into the alley, Subject 1 laid in a prone position, which positioned the gun in his waistband directly towards the car. Officer B heard Officer A open the door and continue to give Subject 1 verbal commands to stop. Subject 1 continued to move his hands. Subject 1 put his left hand on the ground and turned to look at the squad car. He then moved his right hand to his waistband and grabbed the gun that was sticking out. At this point, Officer B heard Officer A fire his weapon twice. The car was still slightly in motion, and the officers were approximately 15-20 feet away from Subject 1, when Officer B heard the shots fired. At the time he heard the shots fired, Subject 1 had one hand on the ground, one hand on his weapon, and was looking and turning right towards the squad car. Officer B then put the car in park, exited the car, drew his weapon, and approached Subject 1. Officer B removed the gun from Subject 1’s waistband for his and his partner’s safety, and moved it a short distance away from Subject 1. Officer B grabbed Subject 1’s hands to place him into custody and noticed that Subject 1’s hands were covered in blood. Subject 1 was still moving at this point, but was not resisting. Officer B realized that he had contaminated himself with blood, and took a step away from Subject 1. Officer B kicked the gun towards the nearby building, and Officer A finished handcuffing Subject 1, while Officer B called for an ambulance. Other units arrived at the location. Once the scene was secure, Officer B went to visually inspect the weapon found on Subject 1 and noticed that there was no

³ Statement of Officer B. Page 7, Line 27. Officer B explained that this phrase is street terminology to stop whatever it is you are doing.

⁴ Department Reports do not document that any further CPD contact with the van or the individuals contained therein. The officers elected to pursue the subject who fled from the moving van. Detective Supplemental Reports document that Subject 1’s mother reported that Subject 1 left in a light colored van with Subject 2, Subject 3/also the registered owner of the van from which Subject 1 fled), and Subject 4, who all had histories of arrest in the Cabrini Green area and were listed as gangster disciples, which correlated to the arrests and gang affiliation of Subject 1. Detectives issued no probable cause to arrest investigative alerts to assist in locating and interviewing these individuals. The Department Reports do not document that these individuals were located.

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magazine in the weapon. He and assisting Department Members walked back to where Subject 1 fled the car, approximately 1658 S. Springfield, and noticed a magazine with live rounds in the grass. Officer B did not know Subject 1 from prior incidents. Officer B related that Subject 1 had multiple opportunities to surrender, but instead chose to flee on foot with a weapon. When he fell, he again disregarded all verbal commands to stop and surrender, and reached for his weapon. Subject 1 put the officers in fear for their lives. Officer A used the force necessary to eliminate the threat and protect both Officer A's life and himself. If Officer B had been the passenger, he would have used the same amount of force given the circumstances.⁵

In an audio recorded statement to IPRA on 17 June 2013, Involved Officer A related that he and his partner, Officer B, were in uniform, assigned to Beat 1014R, and drove a marked SUV. The officers were on patrol in the area of 1600 S. Millard when they heard an individual shouting "lock it up."⁶ They observed a silver Chevrolet van speed off from the curb failing to use the proper signal. They followed the van westbound on 16th Street and had the opportunity to run the plate. The response came back that the particular license plate should have been on a black car, which increased their suspicion. The van turned left going south on Springfield. At that point in time, Officer A observed that there were multiple individuals in the van (at least five). Officer A put on the spot light so he could identify the individual seated in the back. The van continued south on Springfield and made a curving maneuver as if to curb the car, but it never came to a stop. A short distance later, it did the same maneuver again. This time, when the car pulled back into traffic, the passenger side sliding door was open, which caused Officer A to believe that an occupant was going to flee the van. At this point, the officers activated their emergency lights and sirens and attempted to curb the van. The van continued to drive, and as it approached 18th Street, a black male, now known to be Subject 1, jumped from the moving van. Officer B yelled that Subject 1 had a gun. Officer A then observed what appeared to be a black semi-automatic gun in the rear waistband of Subject 1's jeans. He saw the handle of the gun, which appeared to look like the handle of a semi-automatic weapon, sticking out from Subject 1's jeans. The street was lit by artificial lighting (streetlamps) and the headlights and spot lamps on the squad car were on giving them clear visibility of the car. Subject 1 ran south on Springfield, made a right hand turn onto 18th Street, and continued to run west. The officers pursued in their car, while giving verbal direction to stop and announced their office. Subject 1 continued to run. As Subject 1 came to the mouth of the west alley located on Springfield, he made a right into the alley. As he continued to run, he slipped and fell face down onto the pavement. Officer B brought the car to a stop. Officer A immediately exited the car, announced his office again and ordered Subject 1 to stop and show his hands. Officer A was approximately 20 feet from Subject 1. Subject 1 got up by pushing off the ground with his left hand and turned right. Subject 1 looked in the direction of the officers and reached with his right hand and put it on the grip of the handgun in his waistband. At that point, Officer A believed Subject 1 was going to draw the weapon and fire at the officers. In fear for Officer B's and his own life, Officer A fired two rounds. Subject 1 fell face down on the ground, but continued to move. Officer A approached Subject 1 from the right side and Officer B approached from the left.

⁵ The end of Officer B's first statement given on 16 June 2013 at 0824 hours was not recorded. As such, Officer B was interviewed a second time on 2 July 2013, at 1012 hours, to add what he related that was not recorded in his first statement.

⁶ Statement of Officer A. Page 7, Line 16. Officer A explained that "lock it up" was street terminology to notify a cohort of offenders of police presence and to dispose of any illegal contraband or cease illegal activity.

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Officer B retrieved the gun from Subject 1's waistband and tossed it on the ground. Officer A placed handcuffs on Subject 1 and Officer B kicked the weapon further away from Subject 1's body because the handcuffing was not completed and Subject 1 was still moving. Immediately after securing Subject 1, Officer A notified dispatch of their location and that a black male offender had been shot by the police. Officer B notified dispatch that a paramedic was needed. The officers looked at the weapon in the alley and noticed that the magazine was missing. He, Officer B, and assisting units canvassed the area and located the magazine for the weapon. Officer A did not locate the magazine and did not know which officer did.⁷ Officer A did not recognize Subject 1 as someone with whom he had prior contact. Officer A related that Subject 1 had multiple opportunities to drop his weapon and obey verbal commands to stop, but failed to comply. When Subject 1 got up off the ground, looked in the officers' direction and put his hand on the weapon in his waistband, Officer A felt that discharging his weapon was the only option to prevent Subject 1 from retrieving his weapon and firing at the officers.

CONCLUSION AND FINDING:

⁷ Inventory Report # 12931166 documents that the magazine was found by Investigative Officer E. The item was inventoried by Officers C and D.

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This investigation found that the use of deadly force by Officer A was in compliance with Chicago Police 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 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.

Officers A and B observed suspicious behavior in an area known for high narcotics activity. As they approached the location, several individuals inside a van drove away. The officers attempted to curb the van after the driver committed traffic violations, but it did not pull over. A check of the car's license plate number disclosed that the plate belonged on another car. During the pursuit, Subject 1 exited the moving vehicle. At this time, Officer B observed a handgun in the back of Subject 1's waistband. Officer B immediately announced to Officer A and over the radio that Subject 1 had a weapon. Officers A and B gave Subject 1 multiple opportunities to stop and surrender, but he continued to flee. Subject 1 fell in the alley and again had the opportunity to surrender, but did not. Officer A, who had exited the squad car and was approximately 15-20 feet from Subject 1, was in imminent fear of great bodily harm or death, when Subject 1 continued to move, looked in the direction of the officers, and reached for his weapon. At this time, Officer A fired his weapon two (2) times.

Based on the totality of the circumstances, Officer A's actions were reasonable to prevent death or great bodily harm, to both him and his partner, and his use of force was justified.