

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1065182/ U#13-36

**INVESTIGATION**

**NUMBER:** Log #1065182/U #13-36

**INVOLVED**

**OFFICER #1:** “Officer A” (Chicago Police Officer); Male/White; 35 years old; On-Duty; Plainclothes; Year of Appointment – 2000

**OFFICER #1’s**

**INJURIES:** None reported

**INVOLVED**

**OFFICER #2:** “Officer B” (Chicago Police Officer); Male/Hispanic; 39 years old; On-Duty; Plainclothes; Year of Appointment – 2000

**OFFICER #2’s**

**INJURIES:** None reported.

**SUBJECT:** “Subject 1”; Female/Hispanic; 19 years old

**SUBJECT’S**

**INJURIES:** Three gunshot wounds to the left shoulder, gunshot wound under the right breast, gunshot wound on the right side of the torso, and a gunshot wound with the bullet lodged in the center of the back; non-fatal.

**DATE/TIME:** 26 September 2013, 2242 hours

**LOCATION:** 1912 S. Morgan Street (Alley)

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## **SUMMARY OF INCIDENT**

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

On 26 September 2013, at approximately 2242 hours, Officer A and Officer B, were working beat number "6744H." Officer B was the driver and Officer A was the passenger of their unmarked squad car. The officers responded to multiple 911 calls about a person with a gun in the area of Morgan Street and Cullerton Street. When the officers arrived in the area they observed several people at the intersection yelling, "He's got a gun." The people were pointing northbound on Morgan Street to indicate that the subject, now known as Subject 1, was running in that direction. Officers A and B, whose squad car was facing south, proceeded to reverse their squad car north on Morgan Street.

While the officers were driving in reverse, they observed Subject 1 running northbound on Morgan Street with a firearm in her right hand. Subject 1 then ran westbound into an alley that was adjacent to 1912 South Morgan. Subject 1 attempted to hide behind a garbage can in the alley as the officers were approaching in their squad car. Officers A and B observed Subject 1 crouch down behind a garbage can in the south end of the alley. The officers subsequently stopped their squad car a few feet from the garbage can. The officers then exited the squad car, announced their office, and ordered Subject 1 to drop her weapon. Subject 1 stood up and pointed her weapon at the officers. At that time, Officer A and Officer B fired multiple shots in the direction of Subject 1. Subject 1 was struck multiple times and fell to the ground. Additional units and medical attention were requested by the officers. Subject 1 was transported to Stroger Hospital via ambulance for multiple gunshot wounds.

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**The IPRA Preliminary Report and the 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.** The R/I along with IPRA Investigator A conducted a personal visit to Subject 1 at John Stroger Hospital. The R/I explained the purpose of the visit and asked Subject 1 if she wanted to discuss the circumstances regarding the incident. Subject 1 refused to speak with IPRA at this time. The R/I later sent Subject 1 a certified letter requesting her cooperation with this investigation. As of the date of this summary, Subject 1 has not contacted IPRA.

According to **Department Reports**, Subject 1 was arrested on 26 September 2013, at 2242 hours, at 1912 S. Morgan Street, and charged with several accounts of Aggravated Assault with a firearm. The arresting officers were Officer A and Officer B. It is reported that Subject 1 was arrested after pointing a handgun at several witnesses.

Witness 1, Witness 2, Witness 3, Witness 4 and Witness 5 all reported that Subject 1 pointed a gun in their direction. The same witnesses informed the reporting officers that Subject 1 was walking down the street, still holding the firearm. The officers encountered Subject 1 who pointed the handgun at them and refused to drop her weapon. It is reported that in fear for their safety, the arresting officers discharged their duty weapons, incapacitating Subject 1. A Black Phantom BB CO Air Pistol was recovered from Subject 1.

According to the **Tactical Response Report (TRR)**, completed by Officers A and B, Subject 1 did not follow verbal direction, hid behind a garbage can, was an imminent threat of battery, and pointed a black handgun in the direction of Officers A and B. Officers A and B responded with member presence, verbal commands, and the discharge of their firearms.

According to the **Officer's Battery Report (OBR)**, on the date, time and location of the incident Officers A and B were in citizen's dress investigating the report of a person with a gun. Subject 1 pointed a weapon in Officers' A and B direction. Officers A and B did not sustain any injuries.

The **Evidence Technician Photographs** depict the scene of the shooting from various angles. Photographs were not taken of Subject 1 on the date and time of the incident as she had been admitted to the Intensive Care Unit at Stroger Hospital in critical condition.

The photographs also depict multiple pictures of the Black Phantom BB CO Air Pistol brandished by Subject 1. The pistol is a near-replica of the Smith and Wesson M&P40 .40 caliber pistol, and is absent of any brightly colored safety markings that may reveal that it is not an actual firearm.

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

The **Home Surveillance Video Footage** from XXXX S. Morgan Street was obtained. The footage shows Subject 1 running westbound into the alley and hiding behind a garbage can on the south side of the alley. The footage then shows an unmarked police vehicle pull into the alley and stop near the garbage cans. Officer A and Officer B exit their vehicle with their weapons drawn and pointed in the direction of the garbage can that Subject 1 was hiding behind. Officer B is seen quickly ducking down and backing away from the garbage can, at which time both officers discharge their weapons.

**IPRA Investigators conducted two separate canvasses**, in an attempt to locate additional witnesses and/or evidence. Additional information was not discovered. 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** documented that Subject 1 was located in the alley when the paramedics arrived to the scene. The narrative related that Subject 1 appeared to have a gunshot wound to her chest and left shoulder. Subject 1 was transported to Stroger Hospital.

**Medical Records** from **Stroger Hospital** indicate that Subject 1 sustained three gunshot wounds to her left shoulder, one to the right lower breast, one to her right upper back, and one to her abdomen. It is also reported that Subject 1 sustained multiple rib fractures and a scapular fracture.

**Illinois State Police Forensic Science Laboratory Reports** document the examination of the recovered ballistic evidence, in comparison to the firearms belonging to each officer<sup>1</sup>. Both firearms tested were found to be in proper firing condition. Based upon analysis of ISP Reports and Forensic Reports, it was determined that Officer A fired six times and Officer B fired eight times. The shell casings and fired bullets were compared to the officers' firearms and found to match their respective weapons. Other ballistic evidence recovered in the alley does not match either firearm and may be connected to an unrelated event.

**Court Documents** pertaining to the disposition of this case were obtained. Said documents reflect that Subject 1 pled Guilty to the charges against her in this incident.

**In his statement to IPRA on 28 September 2013, Officer A** stated he and his partner, Officer B, responded to a person with a gun call. Officer A was informed by a

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<sup>1</sup> It should be noted that there were eight unfired bullets inside Officer B's gun. One fired bullet along with six expanded shells were collected from the scene. The incident occurred inside an alley and it is likely that one fired bullet or expanded shell was lost or overlooked.

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dispatcher that a male Hispanic wearing a hooded sweatshirt, now known as Subject 1, had just pointed a gun at the caller. Officer A related that when he and Officer B arrived several individuals were screaming and pointing northbound at Subject 1. Officer B began to drive in the direction in which the civilians were pointing.

Officer A related Officer B observed Subject 1 in the alley of XXXX S. Morgan Avenue. Officer B informed Officer A that Subject 1 hid behind the garbage can. Officer A stated when Officer B pulled into the alley, he and Officer B exited their vehicle with their guns in a ready position. Officer A related he heard Officer B state words to the effect of, "Police, drop your weapon."<sup>2</sup> Officer A stated he did not see Subject 1 as she was crouched down behind the garbage can.

Officer A stated Subject 1 stood up behind the garbage can and pointed a handgun at Officer B. Officer A related he was in fear for his safety and the safety of Officer B, and therefore fired his weapon. Officer A later learned that he had fired six rounds at Subject 1. Officer A observed Subject 1 laying on the ground and the handgun on the ground near her. Officer A moved the handgun away from Subject 1 with his foot, while Officer B made notification and called for an ambulance.

**In his statement to IPRA on 28 September 2013, Officer B** essentially related the same information as his partner, Officer A. Officer B stated he observed Subject 1 run into the alley and crouch down behind the garbage can.

Officer B related he drove into the alley and stopped five to ten feet away from the garbage can. Officer B stated as he exited the unmarked vehicle with his weapon in his hand he announced his office. Officer B related Subject 1 stood up and pointed a gun at him. Officer B announced his office and directed Subject 1 to drop her gun. Officer B stated that in fear for his safety, and the safety of Officer A, he fired his weapon. Officer B later learned that he fired eight rounds at Subject 1. Officer B made notification and called for an ambulance.

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<sup>2</sup> Statement of Officer A (Att. #32), Page 16, line 11 & 12

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### CONCLUSION AND FINDING:

This investigation found that the use of deadly force by **Officer A and Officer B** 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."

On 26 September 2013, at approximately 2242 hours, Officer A and Officer B responded to a person with a gun call. During the course of their investigation, the officers came in contact with the subject of the original call, Subject 1.

Subject 1 pointed an air pistol in the direction of Officer B. Officer B announced his office and gave Subject 1 verbal direction to put the gun down. In fear for their lives, Officers A and B discharged their weapons striking Subject 1 multiple times. The air pistol was recovered; it is noted that the weapon is a near-replica of the Smith and Wesson M&P40 .40 caliber pistol and is absent of any brightly colored safety markings that may reveal that it is not an actual firearm.

The facts and circumstances surrounding this event show that Officers A and B were in compliance with the statute "to prevent death or great bodily harm to the sworn member or to another person" as they reasonably believed their lives were in imminent danger when Subject 1 lifted her arm with a firearm and pointed it in their direction.