

INDEPENDENT POLICE REVIEW AUTHORITY
Log #1065245/U #13 -037

INVESTIGATION

NUMBER: Log #1065245/U#13-37

INVOLVED

OFFICER: “Officer A” (Chicago Police Officer); Male/White; 32 years old;
On-Duty; In Plainclothes; Year of Appointment – 2007

OFFICER’S

INJURIES: None reported

SUBJECT: “Subject 1”; Male/Black; 22 years old

SUBJECT’S

INJURIES: Through-and-through gunshot wound to the left elbow;
Non-Fatal.

DATE/TIME: 30 September 2013, 2142 hours

LOCATION: 1335 W. 76th Street

SUMMARY OF INCIDENT

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

On 30 September 2013, at approximately 2142 hours, Police Officers C and D were working Beat 644, when they responded to a call of a man with a gun at 1335 W. 76th Street. When the officers arrived at the location, they observed a large group of people in a parking lot. Officers C and D exited their vehicle, approached the group and instructed everyone to put their hands on the vehicle. Officers A and B, working Beat 5756D, also arrived on the scene in an unmarked vehicle. A black male, now known as Subject 1, who matched the description of the man with a gun, separated himself from the group and began walking in the opposite direction. As Officer A approached Subject 1, Subject 1 began to run. Officer A pursued Subject 1, along with Officers C and D, while Officer B took another route in an attempt to cut off Subject 1's path of flight.

During the pursuit, Subject 1 ran north into a courtyard and was observed by Officer A removing a gun from his waistband. Officer A ordered Subject 1 to drop the gun, but Subject 1 did not comply. Subject 1 then ran around a tree in the courtyard and attempted to flee southbound because the courtyard had a wrought iron fence that prevented Subject 1 from running further north or escaping. When Subject 1 decided to run southbound, he observed Officers C and D preventing him from fleeing in that direction. Subject 1 then stopped running and pointed his weapon at Officer A. Officer A, fearing for his life and the lives of Officers C and D, fired his weapon three times at Subject 1. While falling to the ground, Subject 1 threw his gun over a fence and the gun's magazine fell to the ground near Subject 1. Shortly after, an ambulance arrived on the scene and transported Subject 1 to Holy Cross Hospital for medical treatment of gunshot wounds.

INVESTIGATION:

The **preliminary report completed by IPRA Investigator A** provided substantially the same information as reported in the Summary of Incident of this report.

Attempts to interview Subject 1 were made, but they were met with negative results. Additional telephone contact was made with Attorney A, who was representing his client, Subject 1, in an attempt to schedule an interview. Attorney A stated that he would not allow Subject 1 to be interviewed and refused to cooperate further with this investigation.

In a statement to IPRA on 01 October 2013, the Witness, **Witness 1**, stated that she and a group of people were just hanging out outside talking when a police vehicle pulled up and told everybody to “get on the car.” When some of the people began to walk away, one of the officers pulled his gun out and the people stopped and put their hands up in the air. One of the subjects, who she knows only as “[First Name],”¹ tried to run, but when a detective came from between two vehicles and walked towards him, [First Name] threw his hands up and then ran the other way. With police officers chasing [First Name], he ran past a garbage can and, when he saw he couldn’t jump a gate, he threw both hands up in the air. Hearing three gunshots and not knowing where they came from, Witness 1 and the others dropped to the ground. As she was getting up from the ground, Witness 1 saw [First Name] fall to the ground. Witness 1 stated that she did not see the police shoot [First Name] because it was dark. She only saw two officers standing near [First Name] when she heard the shots. Witness 1 did see one of the officers with his arm extended out but could not identify which officer it was. Witness 1 said she could not provide any further descriptions of the officers who were near [First Name] because it happened so fast. Witness 1 did say that the two officers who were first on the scene were white, they were in uniform and they were the same two officers standing near [First Name] when he was shot. Three photographs were also provided to IPRA by Witness 1. Two of these photographs were of a marked police vehicle and the third was a blurred photograph of a white vehicle and subjects standing near the vehicle.

Attempts to interview **Witness 2** were met with negative results. Certified and first class letters were mailed, telephone messages were left, and personal visits to Witness 2’s residence were made.

Several attempts were made by IPRA to interview **Witness 3**, but she refused to cooperate.

According to **Department Reports**, Subject 1 was arrested on 30 September 2013, at 2142 hours, at 1335 W. 76th Street, and charged with Aggravated Assault, UUW, and Resisting Arrest. The arresting officers were Officer A, Officer C, Officer D, and Officer B. Subject 1 was arrested after he pointed a weapon at Officer A.

CPD Detective 1 and CPD Detective 2, responded to the location of incident, viewed the scene and conducted a canvass in an attempt to locate any witnesses to the police involved shooting. They also conducted interviews of Involved Officer A, and witness Officers B, C and

¹ [First Name] is now known as Subject 1

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D, who were still on the scene. CPD Detective 1 and CPD Detective 2 then responded to Mt. Sinai Hospital where they conducted an interview of Subject 1. After CPD Detective 2 advised Subject 1 of his rights, Subject 1 stated that he understood and waived them. Subject 1 related that on 30 Sep 13, his mother and father dropped him off on 76th Street at the townhouse complex. Subject 1 did not recall the time, but did say it was dark outside. Subject 1 had been drinking tequila before he was dropped off and he continued drinking tequila after he arrived on 76th Street. Subject 1 stated that he drank a lot of tequila.

Subject 1 was in the parking lot with his brother, [Brother of Subject 1], who lives with his girlfriend, [Girlfriend], at XXXX W. 76th Street XX, and has a cell phone number of (XXX) XXX-XXXX. His best friend, [Best Friend], was also in the parking lot. [Best Friend] lives in the area of 87th & Western and his contact number is (XXX) XXX-XXXX. Subject 1 stated that he did not remember what happened the night before, only recalling being dropped off on 76th Street and drinking. The next thing he remembered was waking up in the hospital. Subject 1 did not remember the police pulling up in the parking lot, or him running, nor does he remember having a gun, owning a gun, or anyone giving him a gun. When the detectives asked Subject 1 if they could administer a buccal swab, Subject 1 refused.

CPD Detective 1 and Detective 2 contacted [Best Friend] via telephone and he agreed to meet with them at the housing complex on 76th Street. When the detectives arrived at the housing complex, they telephoned [Best Friend]. The detectives stated that [Best Friend] answered the telephone but didn't speak and immediately disconnected the call. [Best Friend] did this two times. No contact was made with [Best Friend].

The **Tactical Response Report (TRR)** completed by Officer A reported that Subject 1 did not follow verbal direction, fled, posed an imminent threat of battery, used force likely to cause death or great bodily harm and used a weapon. Officer A responded with verbal commands and the use of his firearm. The TRR further documented that Subject 1 pointed a handgun, .380 Semi-Auto Pistol, at Officer A, placing Officer A in fear of death or great bodily harm.

The **Officer's Battery Report** prepared by Officer A reported that he responded to a man with a gun call, involving a black male identified as "Subject 1." The OBR documented that Subject 1 had a 380 Semi-Auto Pistol which he pointed at Officer A, who did not receive any injuries.

The **Crime Scene Processing Reports** listed the relevant evidence, including inventoried items and the location of incident. A Keltec P11, 9MM Luger, semi-auto, 2" nickel/blue pistol was recovered from front grass at 1335 W. 76th Street. Forensic Investigator 1 indicated that he did not have any contact with Subject 1. Forensic Investigator 2 responded to Mt. Sinai Hospital to recover, photograph and inventory Subject 1's clothing.

The **Evidence Technician Photographs** depict Subject 1's clothing. The photographs also depict multiple pictures of Officer A, Subject 1's recovered weapon, a Keltec 9MM Luger, semi-auto 2" nickel/blue pistol, and the scene of the shooting from various angles. Profile photographs taken of Subject 1 at Mt. Sinai Hospital depict no apparent injury.

The **OEMC Event Queries and Audio Transmissions** indicated that unknown callers reported hearing shots fired and four black males standing in the middle of the apartment complex with guns near a green truck and a white Cadillac. It was also reported that shots were fired by the police and the offender was possibly shot in the stomach. EMS was en route and was advised to come through the complex, as there was no other way to enter. It was also reported that no officer was reported to be injured.

A **Canvass** was conducted on 01 October 2013, and various individuals from the area indicated that they heard gun shots, but were not eyewitnesses to the incident. On 02 October 2013, IPRA Investigator B received a telephone call from an unknown male who identified himself only as “[Single Name].”² [Single Name] stated that while in an apartment with his girlfriend,³ he heard footsteps on the patio and someone saying, “Let me see your hands,”⁴ followed by three shots and a male screaming. [Single Name] did not observe anything and did not know the identity of the subject. [Single Name] added that neither he nor his girlfriend want to get involved because he does not reside there and does not want to bring trouble to his girlfriend.

The **Property Inventory** report related all the evidence collected and secured on 14 Mar 2013 for the investigation. The evidence included firearms, casings, blood swabs, GSR kits, clothing of the subject, and POD recordings.

The **CFD Ambulance Report** indicated that the paramedics responded to 1337 W. 76th Street for a gunshot wound victim, Subject 1. Subject 1 sustained a gunshot wound to the left arm.

The **Medical Records** of Subject 1 from **Holy Cross Hospital** and **Mt. Sinai Hospital** indicated that Subject 1 sustained a gunshot wound to the left arm/elbow area. The wound was through and through, and his condition was listed as fair. Subject 1 sustained an open fracture which included removal of bone, removal of a foreign body from the subcutaneous tissues through the bullet wound, and open reduction and internal fixation of left olecranon and ulna shaft fractures. Subject 1’s arm was then placed into a sterile dressing and a long-arm splint.

The **Drug Testing Synoptic Report** completed by CPD Sergeant 1 stated that Officer A discharged his weapon, with hits, while on duty in the 6th District. CPD Sergeant 1 arrived at Area South at approximately 2345 hours on 30 September 2013, to administer the test for BAC and collect a urine sample from Officer A. Officer A supplied a breath test sample at 0029 hours, resulting in a BAC result of .0000. Officer A also supplied a urine sample at 0040 hours. CPD Sergeant 1 informed the OCIC, CPD Deputy Chief A, of the breathalyzer test results. Test results were negative.

Illinois State Police Forensic Science Laboratory Reports document the examination of the recovered ballistic evidence, in comparison to the firearms belonging to Subject 1 and

² Telephone Conversation of [Single Name], who identified himself only as [Single Name] (not sure if a first or last name). For the purpose of this report, he will be addressed as [Single Name].

³ *Id.* [Single Name] refused to provide the name of his girlfriend.

⁴ *Id.*

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Officer A. Both firearms tested were found to be in proper firing condition. Subject 1's weapon, Exhibit #1, has rifling characteristics of six lands and grooves with a right hand twist. A test fired cartridge case from Exhibit #1 was entered into the IBIS database; however, no identification was made. The examination of Subject 1's handgun, Exhibits 1,2,3,4,5 and 6 (One handgun, one handgun magazine, one live cartridge, two live cartridges, four live cartridges, and one live cartridge) did not reveal any latent prints suitable for comparison.

Officer A's weapon, Exhibit #7, displayed rifling characteristics of six polygonal lands and grooves with a right twist. Exhibit #8, one magazine, was used to test fire Exhibit #7. Exhibit #9, one Winchester 9mm Luger +P-unfired cartridge, was examined for caliber and type. Exhibit #10, fourteen Winchester 9mm Luger +P-unfired cartridge cases, were examined for caliber and type. Exhibit #11, one fired bullet is a 9mm/38 class caliber bullet exhibiting five lands and grooves with a right hand twist. Exhibit #11 was not fired by Exhibit #7. Exhibit #12, three Winchester 9mm Luger +P-fired cartridge cases were fired in Exhibit #7.

In his statement to IPRA on 01 October 2013, Officer C stated that he was working in uniform, Beat 644, assigned to a marked car, with partner Officer D. They responded to the location of 1305 W. 76th Street, a call of a man with a gun. When the officers instructed the subjects to put their hands on the car, Subject 1 began to walk away from the crowd. Officer A, who arrived on the scene with his partner, Officer B, began to chase Subject 1 along with Officer C. Subject 1 ran into a courtyard and, when he came upon a wrought iron fence, he realized that he could not exit and pointed his gun at Officer A. Officer C heard three loud reports and believed them to come from Officer A's weapon. Officer C observed Subject 1 fall to the ground and as he fell, one hand flew in the air and an object flew from it. Officer C did not discharge his weapon because he observed subjects standing in the line of fire on the other side of the fence. Officer C observed Subject 1 to have an injury to his arm but could not specifically say where the injury was, and his partner, Officer D, who was also involved in the foot chase, called for an ambulance.

In his statement to IPRA on 01 October 2013, Officer D essentially related the same information as his partner, Officer C. Officer C stated he observed Subject 1 run in the opposite direction after being instructed to stop. Subject 1 ran into a courtyard and continued running along a wrought iron fence until he realized he could not exit the area. Officer A and Officer C were chasing after Subject 1.

Subject 1 stopped and pointed a weapon at Officer A, who gave Subject 1 verbal commands to drop the gun. Subject 1 did not comply. Officer A told Officer D that, in fear for his safety and the safety of Officers C and D, he fired his weapon three times. Officer D made notifications and called for an ambulance. Officer D also recovered Subject 1's weapon which was lying on the ground. Officer D stated that he did not fire his weapon because he did not have a clear line of fire.

In an Interview conducted by CPD Detective 1, Officer B stated the following in essence and not verbatim. When his partner, Officer A, chased after Subject 1, Subject 1 ran to the east side of 1335 W. 76th Street, and then he ran towards 76th Street. Officer B had no knowledge that there was a wrought iron fence that was going to block Subject 1's path. As Officer B began to run, he heard three gunshots. Officer B then ran to the front on 76th Street

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and saw the blue steel and nickel handgun on the grass on the north side of the wrought iron fence and Subject 1 lying on the ground; and one of the other police officers was also there with Officer A.

In his statement to IPRA on 03 October 2013, Involved Member Officer A stated that he was working Beat 5756D, 3rd Watch, in plainclothes, with Officer B. They responded to a call on the radio regarding “a person with a gun” at the location of 1335 W. 76th Street, and were told the person involved was a black male. Upon their arrival, they observe a marked police SUV, Beat 644-Officers C and D, already on the scene; they also observed a group of female and male blacks standing near a vehicle. As Officer A exited their vehicle, Subject 1 walked away from the crowd and towards Officer A. When Officer A heard one of the other officers say “Grab him,” Subject 1 turned and began to walk briskly westbound and then began to run towards a courtyard. As Officer A began to run after Subject 1, he observed Subject 1 reach into the front of his pants or waist area and pull out a handgun. Officer A stated he was approximately ten feet behind Subject 1, and although the lighting was poor in the area, but because of his proximity to Subject 1, he clearly saw a handgun. Officer A gave Subject 1 several commands to drop the gun, but Subject 1 refused to do so. Subject 1 was holding a dark semi-automatic handgun in his right hand. Still running through the courtyard, Subject 1 approached a wrought iron fence and realized that there was no exit, so he turned slightly towards the other side of the courtyard while still holding the weapon in his hand, but again he saw there was nowhere to go. Officer A stated that at this time he saw Officers C and D behind him. At that point, Subject 1 raised his arm with weapon in hand and pointed it towards the officers that were behind Officer A. Subject 1 then immediately came back towards Officer A’s direction with the weapon pointed right at him with his arm extended. Officer A continued to give Subject 1 commands to drop his weapon, but Subject 1 did not comply. Fearing for his safety and for the safety of the other officers, Officer A fired his weapon three times. As Subject 1 was falling to the ground, Officer A observed the weapon come out of his hand, fly into the air and pass through the gate and fall onto the grass. Officer A stopped firing after three times because he saw Subject 1 falling down to the ground and saw the weapon leave his hand. Officer C placed Subject 1 in handcuffs and a 10-1 was called over the air and CFD was also requested. Officer A observed Subject 1 to have an injury to his arm. Officer A did not have any conversation with Subject 1. Seconds after the gunfire, Officer B arrived on the scene and remained with Subject 1’s weapon. Officer A did not sustain any injuries as a result of this shooting.

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 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."

On 30 September 2013, at approximately 2142 hours, Officers A, B, C and D responded to the location of 1335 W. 76th Street, in response to a call from dispatch regarding "a man with a gun." When they arrived on the scene, they observed Subject 1 walk away from the officers. When Officer A gave Subject 1 verbal commands to stop, he refused and began to run. A chase ensued with Officers A and B pursuing Subject 1 on foot. During the chase, Officer A continued to give Subject 1 verbal commands to stop, but he continued to run. As Subject 1 entered a courtyard in a dimly lit area of the housing complex, he encountered an eight foot high wrought iron fence and no exit, so he had no choice but to stop. Realizing that he could not go anywhere, Subject 1 raised his arm and pointed his weapon at Officer A despite repeated verbal commands by Officer A telling him to drop the weapon. Officer A discharged his weapon at Subject 1 three times striking Subject 1 in his arm.

Furthermore, the witness, Witness 1, stated that she observed "[First Name]" also know as Subject 1, run away from the officers and the officers chasing after him. When Subject 1 came upon a gate and couldn't jump over the gate, he threw both hands up in the air. Witness 1 then heard three shots and, not knowing where they came from, she and other went down to the ground. As she was getting up from the ground, Witness 1 saw Subject 1 fall to the ground. Witness 1 stated that she did not see the police shoot Subject 1 because it was very dark. She only saw two officers standing near Subject 1 when she heard the shots and nothing further.

Officer A's actions were in accordance with the requirements of the Department's Use of Deadly Force Policy, and with the statute to "prevent death or great bodily harm to the sworn

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member or to another person and fired a weapon at him. Given that the evidence clearly shows Subject 1 posed a danger to Officer A and other officers, Officer A was justified in discharging his firearm at Subject 1.