

INDEPENDENT POLICE REVIEW AUTHORITY
Log #1070600 / U #14-26

INVESTIGATION

NUMBER: Log #1070600 / U #14-26

INVOLVED

OFFICER: “Officer A” (Chicago Police Officer); Male/White; 46 years old;
Off-duty; In Uniform; Year of Appointment - 1994

OFFICER’S

INJURIES: Fractured clavicle; fractured elbow; concussion; radial nerve
damage; through and through gunshot wound to left bicep.

SUBJECT: “Subject 1”; Male/Black; 55 years old

SUBJECT’S

INJURIES: Multiple gunshot wounds- Deceased on scene.

DATE/TIME OF

INCIDENT: 28 July 2014, 0333 hours

LOCATION: 1641 West Wabansia Avenue, Chicago. IL 60622

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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 28 July 2014, at approximately 0315 hours, Officer A, returned home from his shift. Officer A, still in full uniform, entered his residence and had just removed his shoes and socks when he heard a noise outside.

Officer A exited the side door of his residence and confronted a black male subject, now known as Subject 1, who appeared to be breaking into the rear yard of a house under construction on the opposite side of the alley. Officer A asked Subject 1 what he was doing and ordered him to show his hands. Subject 1 ignored Officer A's verbal orders and engaged Officer A in a verbal and physical confrontation.

Officer A observed Subject 1 holding something in his hand that was silver in color. Officer A produced his .40 caliber semi-automatic firearm from his waistband. Subject 1 struggled with Officer A, grabbed the barrel of Officer A's gun, and Officer A was subsequently shot in his left bicep during the struggle for the gun. After Officer A was shot, he was able to separate himself from Subject 1, at which time he fired several rounds, striking Subject 1 in the upper chest area. It was reported that after Subject 1 was shot, he again charged at Officer A and they both fell to the ground. Officer A was able to regain his footing and he returned to his residence where he yelled for his girlfriend, Witness 1. Due to Officer A's injury, Witness 1 helped him dial 911.

Beat 1432R arrived on scene and handcuffed Subject 1, who was still breathing. Beat 1212R arrived on scene and one of the officers from that unit searched Subject 1. An ambulance arrived on scene and transported Officer A to Stroger Hospital for treatment. Officer A sustained a through and through gunshot wound to his left bicep, as well as a concussion, and fractures to his elbow and collarbone.

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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.

Department Reports provided information that is consistent with the statements given by Officer A, Witness 1, and the officers who responded to the scene. The reports also indicate that two plastic bags of suspected cocaine were located on Subject 1's person.

According to the **Tactical Response Report (TRR)**, completed by Officer A, Subject 1 did not follow verbal direction, grabbed at Officer A's weapon, was an imminent threat of battery, attacked with a weapon and used force likely to cause death or great bodily harm. Officer A responded with member presence, verbal commands, and the 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 uniform investigating a suspicious person. Subject 1 attacked Officer A with a screwdriver and attempted to obtain Officer A's weapon. Officer A sustained major, non-threatening injuries.

The **OEMC** and **PCAD Reports** were collected and made part of this investigation. Analyses of said documents show no information that is inconsistent with the facts as related by the witnesses and the involved officers.

The **In-car Camera footage request** revealed no video footage from vehicles #6537 and #8589, which were the vehicles assigned to the responding officers.

The **Chicago Fire Department Ambulance Report** documented that EMS was dispatched to 1644 N. Marshfield Avenue, at approximately 0344 hours.

The **Medical Records** obtained from Stroger Hospital document that Officer A suffered a through and through gunshot wound to his left bicep. Officer A was additionally diagnosed with a fractured clavicle, a fractured elbow, a concussion, and radial nerve damage to his left arm.

Multiple **canvasses** of the area of the incident were made in an attempt to locate additional witnesses and/or evidence. Although contact was made with several individuals, there were no actual witnesses to the actual incident that could provide relevant information. Witness 2 reported hearing three (3) "loud bangs" and a fourth "bang" after a brief pause. A subsequent visit to Witness 2's residence yielded negative results. Witness 3 also reported hearing three loud noises, followed by a pause, and a fourth loud noise. Witness 4 stated she was laying in bed when she heard multiple shots and heard someone yelling for help.

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The **Evidence Technician Photographs** depict the scene of the shooting from various angles. The photographs also include the body of Subject 1, which depict multiple gun shot wounds.

Illinois State Police (ISP) Forensic Science Laboratory Reports document the examination of the recovered ballistic evidence in comparison to the firearm belonging to Officer A. It was determined that the shell casings recovered at the scene of this event were fired from Officer A's Glock .40 caliber semi-automatic pistol.

A gunshot residue test was conducted on the hands of Subject 1 and the kit was forwarded to the ISP Forensic Science Laboratory for examination. The reports document that Subject 1 discharged a firearm, contacted a primer gunshot residue (PGSR) related item, or had both hands in the environment of a discharged firearm.

The Medical Examiner's Report documents the postmortem examination of Steven Isby. The report indicates that Subject 1 was shot five (5) times, with several of the rounds that struck him causing multiple entry and exit injuries, resulting in twelve (12) total gunshot wounds. Subject 1 was shot three times in the chest, once in the posterior left torso, and once in the left arm. The cause of death was multiple gunshot wounds, with the manner being ruled a homicide. The report also documents the presence of heroin in Subject 1's system.

In a statement to IPRA on 05 August 2014, Witness 1 stated she is Officer A's girlfriend. On the night of the incident, she had arrived home from work at approximately 0230 hours. Witness 1 was falling asleep when she heard a noise. Witness 1 explained that there were two open windows in the house, one that faces south and one that faces north. Once she was awoken, she subsequently heard multiple gun shots. Witness 1 described the cadence of gunshots as being one shot, a pause, and then five more shots in succession. Witness 1 stated she proceeded down stairs and upon reaching the bottom steps, she looked through the north facing window and saw Officer A. Witness 1 stated Officer A informed her that he had been shot.

Witness 1 related that she exited her apartment and observed Officer A holding his arm. Witness 1 stated Officer A gave her one of his firearms to secure inside of the residence and they subsequently called 911. Witness 1 stated Officer A asked her to get a rope from inside of the residence in order for him to use it as a tourniquet around his injured arm. After a short while, police and EMS arrived on scene. (Atts. 60, 63)

In a statement to IPRA on 28 July 2014, Witness Officer B, provided a statement consistent with the Department Reports, and the summary contained within this report. Officer B stated he and his partner, Officer C, worked in uniform on the date of incident. Officer B explained that he and Officer C were on patrol when they heard a "10-1," which Officer B described to be a call of an officer in distress, over the radio at the location of 1644 N. Marshfield Avenue. Officer B stated that upon their arrival at the location, he observed Officer A near the mouth of the alley and he also observed blood

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throughout the scene. Officer B described that Officer A was wearing a blue uniformed police shirt and had a tourniquet around his left arm.

Officer B stated Officer A informed him that he was shot and he further explained that “he” grabbed his gun. Officer B asked Officer A when the incident occurred and how many subjects were involved. Officer A informed him that “one was laying over there.” Officer B, believing that the incident was still occurring, drew his weapon and walked down the alley, towards where Officer A indicated Subject 1 was located. Officer B stated he observed Subject 1 laying face down and a small puddle of blood near Subject 1’s face. Officer B explained that he observed Subject 1 breathing, at which time he placed him in handcuffs. Officer B then heard Officer C call for an ambulance and, immediately after, observed Officer D on scene. Officer D then searched Subject 1 and announced that Subject 1 was deceased.

Officer B explained that Subject 1 was laying face down in a construction site off of the alley. Officer B further explained that the construction site was barricaded by a fence. Officer B stated he also observed a book bag lying next to Subject 1. Officer B related that Officer D recovered some papers from Subject 1’s pocket and he also recalled a flashlight or a similar object found on the scene. (Atts. 59, 60)

In a statement to IPRA on 28 July 2014, Officer David C, #17626 provided a statement consistent with that of Officer B, the Department Reports, and the summary contained within this report. Officer C added that Officer A informed him that he was off-duty and was coming home when he observed Subject 1 attempting to break into the construction site near 1644 N. Marshfield Avenue. A struggle ensued and both Officer A and Subject 1 were shot. (Atts. 51, 52)

In a statement to IPRA on 28 July 2014, Officer Jason D, #16342 provided a statement consistent with that of Officers B and C; the Department Reports; and the summary contained within this report. Officer D stated he worked Beat 1212R with his partner, Officer Noel E, #9378 and they were both dressed in uniform. Officer D explained that when they arrived he observed other units on scene. As he and Officer E walked near the crime scene, he observed a chain linked fence that was blocking a construction site. Officer D stated that as he entered the construction site, he observed Officer B standing near the head of Subject 1, who was lying face down on the ground, with a black book bag, a silver screw driver, and a flashlight near his body.

Officer D stated he moved the screw driver from Subject 1’s reach, to prevent him from using it as a weapon, and placed it on a cement partition. Officer D then searched Subject 1’s clothing and recovered tissue paper and tobacco from his back pockets. Officer D explained that upon turning Subject 1 to check his front pockets, he realized he was deceased. Officer D added that he never saw or spoke with Officer A while he was on the scene. (Att. 53, 54)

In a statement to IPRA on 28 July 2014, Officer Noel E, #9378 provided a statement consistent with that of Officers B, C and D; the Department Reports; and the

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summary contained within this report. Officer E stated that upon arriving at the location of the incident, he and Officer D walked to the fenced area. Officer E stated he briefly saw Officer A being wheeled away on a gurney. Officer E explained that he observed blood throughout the crime scene. Officer E stated he stayed in the alley, while Officer D entered the construction site. Officer E stated he looked over the fence and observed Subject 1 lying face down, handcuffed. (Atts. 55, 56)

In a statement to IPRA on 13 August 2014, Officer A, provided a statement consistent with that of Officers B, C, D, and E; the Department Reports; and the summary contained within this report. Officer A stated that on the date of the incident he was originally scheduled to work until 0500 hours. Officer A related he left work early, leaving several hours before the end of his shift with approval from his supervisor. Officer A explained that when he arrived home he went into his kitchen, in order to prepare something to eat. Officer A stated he was still wearing his police uniform but had taken his socks and shoes off upon arriving home. Officer A explained that he was carrying his duty weapon in his waistband as he had left his duty belt in his vehicle. Officer A also had his auxiliary weapon in a pancake holster, affixed to his waistband.

While in the kitchen, he heard a noise outside. Officer A described the noise as “some sort of rattling, metallic like noise.”¹ Officer A stated he heard the noise from an open window facing the alley. Officer A looked out of the window and saw Subject 1 directly across the alley, attempting to open the fence, which led to a residence that was under construction. Officer A stated the occupants of the residence are a doctor, his wife and their two children. Officer A explained that he knows the family that lives in the home, knows the two children who reside in the home, and sees the family regularly. Officer A explained that the family was living there during the addition to their home and that he knew they were inside their home. Officer A related when he saw Subject 1 entering the property he “knew (he) had to do something right away.”

Once Officer A observed Subject 1 enter the construction site, he exited his residence and followed Subject 1. When Officer A reached the construction site, he observed Subject 1 at the rear door of the residence that was under construction. Officer A stated he said words to the effect of, “Hey, police, get over here.” Officer A then explained that Subject 1 turned and saw him and he could tell that Subject 1 was agitated and angry. Officer A stated Subject 1 was about 25-30 feet away from him when he first turned around. Subject 1 then started moving towards Officer A, at which time Officer A could see Subject 1 had his hand closed, as if he was holding an object. Officer A could not see what, if anything, Subject 1 was holding. Officer A gave Subject 1 several verbal commands to stop but Subject 1 continued to move towards Officer A. Officer A stated he drew his duty weapon from his waistband as Subject 1 drew within 10-15 feet of him, at which time Subject 1 began to move faster towards him.

Officer A explained that when Subject 1 got close to him, he made motions that Officer A perceived to be punches towards his stomach. Officer A stated he tried blocking the punches with his left hand, while he still held on to his firearm. Officer A

¹ Statement of Officer A, page 15, lines 15-16.

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related Subject 1 “swatted” at his firearm, grabbed it, and squeezed. Officer A believes that he had his finger on the trigger, and when Subject 1 squeezed his hand, the firearm discharged and hit his left arm. Officer A explained that the bullet entered his bicep and exited through his tricep. Subsequently, his arm “clinched” to his side and he felt pain and shock. Officer A then lifted his left knee and pushed Subject 1 away from him in order to create distance between them.

Officer A stated Subject 1 was screaming words to the effect of, “I’m gonna kill you motherfucker. Fuck you, I’m gonna kill you.”² Officer A explained that he continued to give Subject 1 verbal commands to the effect of, “Police, get down” but Subject 1 continued to come towards him.

Officer A recalled, “He is coming towards me again. So, now my arm is in pain. It’s, it’s useless. I am holding a gun in my right hand. And he is coming towards me again and I am afraid I am going to pass out. I don’t know what is going to happen. I can feel blood all over me now. And I am afraid for my life. And I discharge my weapon.”³

Officer A explained that as he was firing his weapon, Subject 1 continued to move forward to engage him. Officer A recalled that he fired four or five shots, but that Subject 1 continued to move towards him. Officer A stated, “It was almost like I was shooting blanks, he just kept coming.”⁴ Officer A related that he and Subject 1 became entangled again, at which time Officer A began to move forward, pushing Subject 1 backwards. Officer A related that as he was pushing Subject 1 backwards, he twisted to his side as they both fell over a nearby concrete barrier. Officer A related that both he and Subject 1 fell over the barrier face first, with Officer A landing on his elbow. Officer A stated after they both fell, he got back up to his feet, and that Subject 1 remained on the ground.

Officer A stated he then went to the alley in front of his house, and called for Witness 1’s help. Officer A and Witness 1 called 911, and she assisted in fashioning a tourniquet for his arm. Officer A put his duty weapon, which was the weapon used in this incident, in his front right pocket. Officer A gave Witness 1 his auxiliary weapon, which was not used in this incident, and instructed her to secure it inside their home.

Upon the arrival of the responding officers, Officer A led them to where Subject 1 was still laying on the ground. Officer A briefly explained to the officers that he had interrupted Subject 1’s attempt to break into a nearby home, a struggle had occurred, that Subject 1 shot him, and that Officer A then shot Subject 1.

Officer A was transported to Stroger Hospital for treatment of his injuries. Officer A recalled that he relinquished his firearm to a female police officer while in the

² *I.d.* Page 27, lines 3-4.

³ *I.d.* Page 27, lines 21-28.

⁴ *I.d.* Page 30, lines 14-15.

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emergency room, though he could not recall specifically what occurred as he was essentially in shock.

Officer A later learned that a screwdriver was found on or near Subject 1's body. Officer A related he believes that the "punching" motions Subject 1 was making towards his stomach were, in hindsight, consistent with Subject 1 attempting to stab him with the screwdriver.

Officer A related that the succession of gunfire was the first shot that struck his bicep, a brief pause where he created distance between himself and Subject 1, and then the final volley of 4-5 gunshots.

Officer A related that he had no other options available to him other than the use of deadly force, as he believed that Subject 1 intended to kill him.

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CONCLUSION AND FINDINGS:

This investigation found that the use of deadly force by Police Officer A was in compliance with both Illinois State Law and Chicago Police Department Directives.

Officer A heard a foreign noise in the alley, and discovered Subject 1 apparently attempting to burglarize a neighbor's home. Upon confronting Subject 1 and ordering him to stop, Subject 1 charged at Officer A and a physical struggle ensued. During the physical struggle, Subject 1 grabbed Officer A's duty weapon, which caused the weapon to discharge, striking Officer A in the right arm. Officer A, fearing for his life, discharged his weapon several times, striking and fatally wounding Subject 1. Officer A sustained multiple injuries as a result of this event, to include a through and through gunshot wound to his left bicep, a fractured clavicle, a fractured elbow, a concussion, and radial nerve damage to his left arm

The Cook County State's Attorney's Office reviewed this officer involved shooting, concluded there was no violation of the Illinois Compiled Statutes, and declined to file any criminal charges in this matter.

Based on the totality of the facts and circumstances, the R/I finds that an officer with similar training and experience as Officer A would reasonably believe that Subject 1 posed an immediate threat to his or her safety. The R/I finds that the use of deadly force by **Officer A** is 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;
 - c. otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay."