

INDEPENDENT POLICE REVIEW AUTHORITY
LOG #1047919/U# 11-45

INVESTIGATION

NUMBER: U# 11-45, Log #1047919

OFFICER

INVOLVED #1: “Officer A” (Chicago Police Sergeant); Male/White; 44 years old;
On- Duty; Civilian Dress; Year of Appointment – 1991

OFFICER’S

INJURIES: None

SUBJECT: “Subject 1”; Male/Hispanic; 18 years old

SUBJECT’S

INJURIES: Gunshot wound to the left cheek; Treated at Illinois Masonic
Hospital

INITIAL

INCIDENT: Shots Fired

DATE/TIME: 22 August 2011, 2108 hours.

LOCATION: 4819 N. Central Park Ave., Chicago, IL 60625.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1047919/U#11-45

SUMMARY OF INCIDENT:

On 22 August 2011, at approximately 2108 hours, Officer A, was assigned to Beat 1762 and was a passenger in an unmarked police Tahoe driven by Officer B, who was assigned to Beat 1762A. While Officer A and Officer B were in the area of Leland Avenue and Drake Avenue on a robbery mission, they heard loud reports of gunfire. The officers then observed two male subjects on bicycles, one now known as Subject 1, riding westbound on Leland Avenue. The officers started to follow the two male subjects into the east alley of Central Park Avenue and then into the west alley of Drake Avenue. At some point, the two male subjects separated and the officers followed Subject 1 because he had one hand on his waistband area and the other hand on the handlebars. The other male subject had both hands on the handlebars. Subject 1 continued on his bicycle and went into a t-alley between Central Park Avenue and Drake Avenue.

Officer A and Officer B continued to drive behind Subject 1. Subject 1 then abandoned his bicycle and attempted to flee on foot. While Subject 1 was getting off his bicycle, Officer A observed Subject 1 pull a gun out of his waistband. Subject 1 then ran towards a gate at 4819 N. Central Park Avenue. As Subject 1 ran towards the gate, he was in a prone position facing the officers' vehicle with the gun in front of him and pointing the gun at the officers' vehicle. Officer A, while still inside the unmarked Tahoe, put his hand holding his gun outside of the passenger side window and fired his gun three times striking Subject 1. Subject 1 was subsequently transported to Illinois Masonic Hospital for medical treatment.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1047919/U#11-45

INVESTIGATION:

In a statement with IPRA on 27 March 2012, Witness Officer B stated that on the date of the incident he was assigned to beat 1762A, which is an unmarked Chevy Tahoe. Officer B was dressed in civilian clothing and was working with Officer A. While Officer B and Officer A were on a robbery mission in the vicinity of the location of incident, they heard a gunshot. Shortly afterwards, Officer B observed two male subjects, one now known as Subject 1, riding bicycles in his direction. Officer B stated that Subject 1 and the other male subject were pedaling fast towards his squad car which was parked. At that time, Officer B, who was the driver of the squad car, activated his emergency equipment and made a three point turn to follow Subject 1 and the other male subject. At some point, Subject 1 and the other male subject went in separate directions, so Officer B pursued Subject 1. Officer B explained that the reason he pursued Subject 1 was because he had his left hand on the handlebars and his right hand was "feeling around his wing span area." Subject 1 continued to ride his bicycle into an alley with Officer B still in pursuit.

As soon as Officer B turned into the alley, he observed Subject 1 get off the bicycle and pull a gun from the right side of his waist. Officer B then yelled, "Gun, gun," while Officer A yelled the same thing. Subject 1 then turned and Officer B observed a profile of Subject 1's left side with a gun in his right hand. At that time, Subject 1 moved across the front of the unmarked vehicle and slipped. When he slipped, Subject 1's gun was pointed at the front of the unmarked vehicle, Officer B, and Officer A. Officer A then yelled, "Police, drop the gun." Officer B also screamed for Subject 1 to "drop the gun." As Officer B pulled out his gun, he heard Officer A fire two or three gunshots.

At that point, Officer B saw that the threat was minimized, so he covered down on Subject 1 until he was secured. Officer B explained that he "covered down" on Subject 1 by pointing his gun at Subject 1 while partially in the unmarked Chevy Tahoe using the door as cover. As Officer B "covered down" on Subject 1, Officer A exited the squad car and handcuffed Subject 1. Officer B then requested an ambulance and reported shots fired by the police. Officer B stated that Subject 1's weapon was recovered a few feet away from him in a gangway. Officer B stated that he does not know if the gun dropped out of Subject 1's hand or was shot out of his hand. Officer B described Subject 1's gun as being silver with a black handle. Officer B did not fire his weapon during the incident.

In a statement to IPRA on 13 November 2012, Involved Officer A stated that on the date of the incident he was dressed in civilian clothing and was working with Officer B in an unmarked Chevy Tahoe. Officer A stated that he, Officer B, and other officers were conducting a robbery mission within the vicinity of the location of incident. Officer A went on to explain that he was working with Officer B so that they would be a two-man unit for safety. While in the vicinity of the location of incident, Officer A heard a single gunshot fired from the area of 4700 N. Central Park Avenue. Immediately after hearing the gunshot, Officer A observed two male subjects, one now known as Subject 1, on bicycles traveling from Central Park Avenue. Officer A stated that at that time he and Officer B were parked just west of Drake Avenue on the south side of Leland Avenue.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1047919/U#11-45

After Officer A and Officer B observed Subject 1 and the other male subject, Officer B made a three point turn to follow Subject 1 and the other male subject. As Officer B pursued Subject 1 and the male subject, he activated his lights. Subject 1 and the male subject looked back and sped up faster on their bicycles. At that time, Officer A observed Subject 1 with only one hand, his left hand, on his handlebar and his right hand around his right hip. The other male subject had both hands on his handlebar. Officer A explained that at that time he believed that Subject 1 was "holding on to something." Subject 1 and the male subject continued to flee on their bicycles with Officer A and Officer B in pursuit. During the pursuit, Subject 1 and the male subject split up and went in opposite directions. Officer A stated that he and Officer B decided to pursue Subject 1 because they felt that the threat was with him since he was holding his side. Subject 1 continued to ride his bicycle to the north alley of Lawrence Avenue between Central Park Avenue and Drake Avenue.

In the alley, Subject 1 turned around on the bicycle and looked in the officers' direction. Subject 1 then moved his arm up and down as if he was trying to take something out of his pants or waistline on his right side. Officer A stated that he perceived that Subject 1 was trying to pull something from his waistband while he was pedaling his bicycle. Officer A then withdrew his weapon while seated inside the unmarked Chevy Tahoe and told Officer B that he thought Subject 1 was pulling out a gun. At that time, Officer B, who was driver officer, started to close the gap between them and Subject 1. As Officer B drove within forty feet of Subject 1, Officer A extended himself outside of the unmarked Chevy Tahoe because he was in fear of Subject 1 turning with a gun. Officer A described that his torso was out of the front passenger side window and his right arm was extended with his gun in his right hand while his left hand was holding on to the top of the unmarked vehicle. Subject 1 then turned into a T-shaped alley between Central Park Avenue and Drake Avenue and Officer A lost sight of him for a split second.

When Officer B turned into the T-shaped alley, Officer A observed Subject 1 jumping off his bicycle. Subject 1 turned towards the officers and Officer A observed a gun in his right hand. Officer A then yelled "gun, gun, gun," and told Subject 1 to "drop the gun." Officer A described Subject 1's gun as dark in color. Subject 1 then ran west, while still in the alley, pointing a gun at Officer A and Officer B. As Subject 1 ran west while still pointing a gun, he ran in front of the unmarked Chevy Tahoe driven by Officer B. When Subject 1 got to the center of the unmarked Chevy Tahoe, Officer A fired two shots in Subject 1's direction and Subject 1 simultaneously slipped. Subject 1 got back up and Officer A saw that the gun was still in Subject 1's right hand. Subject 1 then looked directly at the officers and pointed his gun in the officers' direction.

At that time, Officer A fired his weapon again striking Subject 1 in the face. Subject 1 fell down and Officer B brought the unmarked vehicle to a complete stop. Officer A then pulled himself out of the passenger window and observed Subject 1 bleeding, moaning, and groaning. Officer A then observed that Subject 1 no longer had the gun in his hand. Officer A stated that after he shot Subject 1 he lost sight of Subject

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1047919/U#11-45

1's right hand. Shortly afterwards, Officer A handcuffed Subject 1 and other officers arrived on the scene. Officer A stated that Subject 1's gun was recovered approximately twenty to thirty feet away from Subject 1 in the gangway at 4819 N. Central Park Avenue. Officer A stated that he and Officer B were the only officers in the alley during the incident.

Attempts to interview Subject 1 were unsuccessful. His attorney, Attorney A, refused to let him be interviewed.

The Chicago Fire Department (CFD) EMS Incident Report documents that on the date of the incident paramedics responded to the scene and observed Subject 1 lying on the ground, alert, and moving around. Subject 1 was observed with a gunshot wound to his left cheek with no visible exit. Subject 1 was transported to Illinois Masonic Hospital for medical treatment.

Medical Records from Illinois Masonic Hospital for Subject 1 documents that he was diagnosed with a gunshot wound to the left side of his face with left mandible fracture and a neck hematoma.

The related Department records, which include the Arrest Report, Original Case Incident Report, included accounts of the incident that were consistent with the summary of the incident. The Arrest Report added that Subject 1 was identified in a photo line-up as the offender who shot at a male subject, [Named Male], striking his vehicle moments prior to the officer involved shooting. Subject 1 was arrested and charged with Aggravated Assault to an Officer (2 counts), Aggravated Assault Discharge Firearm, and Aggravated Unlawful Use of Weapon.

The Case Supplementary Report provided Officer A's account of the incident. Officer A provided the same information in his statement to IPRA. Officer A added that Subject 1 dropped back to the alley pavement once he was shot the third time and Subject 1's arms extended outward from his body into the yard at 4819 N. Central Park Avenue. Subject 1 was subsequently handcuffed and an ambulance was summoned for medical attention. In addition, the Case Supplementary Report provided Officer B's account of the incident. Officer B provided essentially the same information in his statement to IPRA.

The Crime Scene Processing Report listed that Officer A's weapon, a Sig Sauer, Model P226, 9mm, Semi-automatic, was inventoried under number 12399614. There were thirteen (13) Win 9mm Luger + P bullets recovered from Officer A's weapon. The weapon belonging to Subject 1, a Bersa, Model Thunder .380, Semi-automatic, was inventoried under number 12399628.

The Evidence Technician Photographs and Video depict what appear to be the location of the incident and the recovered evidence.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1047919/U#11-45

A Tactical Response Report (TRR) for Officer A documents that Subject 1 was an “assailant” who “did not follow verbal direction, fled, posed an imminent threat of battery, had a weapon, and pointed the weapon at Officer A and Officer B.” Officer A used member presence, verbal commands, and his firearm to subdue Subject 1. Officer A fired a total of three shots from his firearm, a Sig Sauer 9mm, Model P226.

An Officer’s Battery Report (OBR) documents that Officer A did not sustain any apparent injuries or no injuries.

A TRR for Officer B documents that Subject 1 was an “assailant” who “did not follow verbal direction, fled, posed an imminent threat of battery, had a weapon, and pointed the weapon at Officer B and Officer A.”

An OBR documents that Officer B did not sustain any apparent injuries or no injuries.

Office of Emergency Management and Communication (OEMC) records did not reveal any callers who reported hearing or seeing the officer involved shooting. OEMC records only document callers who reported hearing gunshots to the shooting that occurred at 4628 N. Central Park Avenue.

A canvass of the vicinity of the location of incident failed to produce any witnesses.

PODs in the vicinity of the location of incident were requested. POD #377, located at 3659 W. Lawrence, failed to capture any footage relevant to the incident. POD #5003, located at 3536 W. Ainslie, had a bad file format, so the video could not be played. It should be noted that POD #5003 would not have captured the officer involved shooting. Requests for POD #340, located at 3533 W. Lawrence, POD #1024, located at 3633 W. Lawrence, and POD #1062, located at 3559 W. Lawrence, were unsuccessful due to technical difficulty. In addition, there was no In-Car camera footage available because the unmarked Tahoe was not equipped with an In-Car camera. Further, there were cameras observed on Lawrence Avenue, one belonging to the alderman’s office and the other one belonging to Medulla’s Restaurant, but the cameras were inoperable and not recording during the incident.

A Breathalyzer Test taken on 22 August 2011, at 0210 hours, revealed that Officer A’s BAC was .000. Officer A also submitted to a drug test on the same date, at 0220 hours, which revealed negative results.

An Illinois State Police (ISP) Report, dated 29 November 2011, documents that Officer A’s weapon, a Sig Sauer, Model P226, was test fired, examined, and found to be in firing condition. An ISP Report, dated 23 August 2011, documents that Subject 1’s weapon, a Bersa, Model Thunder .380, Semi-automatic, inventoried under number 12399628, did not reveal any latent impressions suitable for comparison. An ISP Report, dated 25 August 2011, documents that Subject 1’s weapon was test fired, examined, and

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1047919/U#11-45

found to be in firing condition. Further, ISP Reports, dated 14 June 2012 and 16 August 2012, document that biological swabs were taken from the textured surfaces of Subject 1's weapon and a DNA profile was identified that matched Subject 1's DNA profile.

Court Records document that Subject 1 pled guilty to Aggravated Discharge of a Firearm and two counts of Aggravated Assault/Use of Firearm/Peace Officer. He was sentenced to the Illinois Department of Corrections for fourteen years.

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1047919/U#11-45

FINDINGS:

The investigation found that the use of deadly force by Officer A was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order # G03-02-03, II:

- 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 involved the infliction, threatened infliction, or threatened use of 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.

Officer A and Officer B pursued Subject 1 after they heard a gunshot in the vicinity of the location of incident and observed Subject 1 pedaling fast on a bicycle away from the location where the gunshot was heard. Subject 1 was aware that the police were behind him, so he decided to flee. Officer A ordered Subject 1 to drop his gun several times, but Subject 1 did not comply. Officer A, in fear of his life and Officer B's life, fired his weapon three times at Subject 1 striking him. Subject 1's weapon, a Bersa, Model Thunder .380, Semi-automatic, was recovered at the scene. An ISP Report documents that a DNA profile from Subject 1's weapon matched his DNA profile. Therefore, based on the totality of the circumstances, Officer A was reasonably in fear of his life and fired his weapon at Subject 1 to prevent death or great bodily harm.