

INDEPENDENT POLICE REVIEW AUTHORITY

INVESTIGATION

NUMBER: Log# 1001651/U# 06-41

OFFICERS

INVOLVED: #1 “Officer A” (Chicago Police Officer) – Male/White; 33 years old; On-Duty; In civilian clothes; Year Of Appointment - 2002

#2 “Officer B” (Chicago Police Officer) – Male/White; 27 years old; On-Duty; In civilian clothes; Year Of Appointment – 2002

OFFICERS’

INJURIES: #1 None Reported

#2 None Reported

SUBJECT: “Subject 1” – Male/Black; 30 years old

SUBJECT’S

INJURIES: Gunshot wound to the right leg

INITIAL

INCIDENT: Aggravated Assault, Handgun

DATE/TIME

OF INCIDENT: 28 November 2006, 2119 hours

LOCATION: 6700 block of S. Prairie
Beat 322

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SUMMARY OF INCIDENT:

On 28 November 2006, at approximately 2119 hours, Chicago Police Officer A and Officer B were conducting a narcotics surveillance in the rear of XXXX S. Prairie. They heard gunshots in the area. After reporting the gunshots over the radio, Officer A went to the front of XXXX S. Prairie and observed a subject, now known as Subject 1, exit the alley on the west side of Prairie with a gun in his hand. Officer A announced his office and repeatedly told Subject 1 to drop the weapon. Subject 1 pointed his gun at Officer A, who fired his weapon at Subject 1. Subject 1 ran south on Prairie, followed by Officer A. Subject 1 again pointed his gun at Officer A, who again fired his weapon at Subject 1. Officer A believed that Subject 1 fired at him at some point during the incident. Subject 1 ran between the buildings at XXXX and XXXX S. Prairie, threw his gun into the air and continued to run to XXXX S. Prairie, where he tried to enter the building. Officer A stopped Subject 1 before he could enter the building and placed Subject 1 into custody. Further investigation revealed that the gunshots the officers heard were attributed to an unknown subject who approached XXXX S. Prairie and fired a gun at the people sitting on the porch, including Witness 1, who sustained a gunshot wound to the knee. Subject 1 was also one of the people on the porch and he ran after the unknown subject. Subject 1 shot at the unknown male and followed him into the alley on the west side of Prairie. Subject 1 was returning to XXXX S. Prairie when Officer A saw him. The unknown male was not found or identified.

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Witness 2 related to the Roundtable panel that she was on the porch at XXXX S. Prairie when she saw an unknown subject exit the alley and shoot at the porch. Witness 2 ran inside and heard several more gunshots. A man she did not know (Witness 1) was shot in the leg. Witness 1's cousin helped him into the house and Witness 1's sister called 911. Witness 2 remained in the house for the rest of the incident and did not see anyone else fire a gun.

Witness 3 related to the Roundtable panel that he was on the porch at XXXX S. Prairie when he heard gunshots and ran inside. Witness 3 looked outside and saw a male he did not know shooting toward the porch. Witness 3 returned to the porch to help his cousin (Witness 1) into the house. The unknown male ran toward the alley. Witness 3 saw a marked squad car driving north on Prairie from 68th Street. Witness 3 heard more gunshots and returned inside the residence. The only person he saw fire a gun was the unknown male who fired at the porch.

Officer C related to the Roundtable panel that she was driving south on Wabash toward 68th Street when she heard a report over the radio about shots fired near XXXX S. Prairie. Officer C drove to that location and heard additional calls of shots fired. Officer C heard the gunshots and stopped the squad car at XXXX S. Prairie. Her partner, Officer D, told her that he saw a man with a gun on the east side of the street. Officer C heard more gunshots as she and Officer D exited the squad car. Officer C then heard Officer A report shots fired by police over the radio. Officer D motioned to the east side of the street, where Officer C observed a subject (now known to be Subject 1) running through a gangway. Officer D reported this information over the radio. Both officers pursued Subject 1 through a vacant lot. Officer D jumped over

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several fences and ran through yards. Officer C ran to the alley in order to attempt to cut off Subject 1. Officer C saw two officers in a backyard approximately one-half block ahead of her. By the time she arrived at that location, Subject 1 was in custody.

Officer D related to the Roundtable panel that he heard a radio report about shots fired in the vicinity of XXXX S. Prairie. Officers D and C approached that location from the south and heard gunshots. The officers exited their vehicle at XXXX S. Prairie and went to the sidewalk. Officer D saw a subject (Subject 1) on the east side of the street, carrying a gun. Subject 1 ran east through a vacant lot. Officer D ran east to cut off Subject 1. Officer D reported the pursuit over the radio and jumped several fences in pursuit of Subject 1. Subject 1 was already in custody by the time Officer D reached him. Officer D did not observe anyone discharge a weapon.

Detective A related to the Roundtable panel that he interviewed Subject 1 at Christ Hospital. Subject 1 stated that he was on the porch at XXXX S. Prairie with some other people when an unknown black male appeared across the street and began shooting at the people on the porch. Subject 1 removed his semi-automatic pistol and returned fire. Subject 1 followed the male north on Prairie and entered the alley to the west. Subject 1 fired again at the male but did not catch him. Subject 1 started to return to XXXX S. Prairie with the gun in his hand and saw a white male police officer (Officer A) near XXXX S. Prairie. Officer A fired at Subject 1, who ran south on Prairie. Subject 1 turned toward Officer A twice as he ran, near XXXX S. Prairie and XXXX S. Prairie. Both times, Officer A fired at him. Subject 1 threw his gun in the air and went to the rear of XXXX S. Prairie. Officer A caught him and handcuffed him.

Detective B related to the Roundtable panel that he spoke to Officer E at Northwestern Hospital about Witness 1's condition. Officer E reported that he spoke to Witness 1 before Witness 1 went to surgery. Witness 1 stated that he was on the porch at XXXX S. Prairie when he heard gunshots coming from the alley. Witness 1 realized that he was shot and fell to the porch. As Witness 1 tried to get back into the house, he heard someone yell "police" and heard more gunshots. Witness 1 got into the house and passed out from the pain.

Officer B related to the Roundtable panel that he was on narcotics surveillance with Officer A behind XXXX S. Prairie when they heard fifteen to twenty gunshots coming from Prairie or the alley across the street. Officers B and A went to a fence and started to climb over it. Officer A jumped over two fences to reach Prairie but Officer B got caught on the first fence. Officer B saw a subject (Subject 1) cross Prairie from the alley on the west side of the street. Officer B could only see Subject 1 from the shoulders-up. Officer B heard Officer A announce his office and say, "Drop the gun." Officer B heard more gunshots but did not know who fired a gun. Officer B was able to get off the fence and went to Prairie. He did not see anyone. Officer B then went toward XXXX S. Prairie and called for Officer A. Officer B met Officer A in the rear of XXXX S. Prairie and saw Officer A place Subject 1 into custody. Officer A told Officer B that he saw Subject 1 throw a gun near the vacant lot. The officers later found a 9mm semi-automatic handgun in the gangway near where Officer A observed Subject 1 throw the gun.

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Officer A related to the Roundtable panel that he and Officer B set up a narcotics surveillance looking at the alley behind XXXX S. Prairie. Officer A heard fifteen to twenty gunshots. Officer A reported the gunshots over the radio and went toward the street, where he heard more than twenty gunshots. Officer A jumped over a fence and saw a subject (Subject 1) looking down Prairie with a gun in his hand. Officer A announced his office. Subject 1 raised his gun toward Officer A. Officer A ordered Subject 1 to drop his weapon but Subject 1 refused. In fear for his life, Officer A fired his weapon at Subject 1. Subject 1 ran down the street. Officer A pursued Subject 1, who then turned and pointed his gun at Officer A several more times. Officer A fired his weapon at Subject 1 again. Subject 1 crouched by a parked car and then ran toward the alley, pointing his gun at Officer A. Officer A again fired his weapon at Subject 1. Officer A's gun locked back on an empty magazine at that point, but he reloaded his weapon and continued to follow Subject 1. Officer A observed Subject 1 throw something and run to the alley. Officer A followed Subject 1 and apprehended him at the back door of XXXX S. Prairie. Officer A stated that he was approximately twenty-five feet from Subject 1 when he fired at him and that he fired a total of fourteen rounds. (Attachment 5)

A **canvass** was conducted in the area of XXXX S. Prairie; however, no other witnesses were located. Attempts to interview Witness 1 and Subject 1 were unsuccessful. (Attachments 17,18,22)

The report from **Assistant Deputy Superintendent A, General Offense Case Reports, Subject 1's Arrest Report** included accounts of the incident that is consistent with the Summary of Incident. Subject 1 was charged with Unlawful Use of a Weapon by Felon and Aggravated Assault to a Police Officer. (Attachments 4, 7, 8, 12)

The **Detective Supplementary Report** includes accounts of the incident that are consistent with the Summary of Incident, accounts provided at the Roundtable and accounts provided to IPRA. Witness 2, Witness 3, and the Department witnesses provided the same information to the detectives that they related at the Roundtable. Additionally, Witness 4, Witness 5 (twelve years old) and Witness 6 spoke to detectives during a canvass after the incident. Witness 4 related that he was at XXXX S. Prairie at the time of the incident. Witness 4 heard gunshots and went inside the house but did not see anything involving the police. Witness 5 related that she was on the front porch of XXXX S. Prairie when an unknown subject approached and shot at the people on the porch. Witness 5 went into the house. She heard more gunshots but did not see anyone else fire a weapon. Witness 6 related that she was inside the house when she heard gunshots. She went outside and called the police. (Attachment 30)

Officer A's **Tactical Response Report** indicates that he fired his weapon fourteen times. (Attachment 10)

The **Evidence Technician Photographs and Videotape** depicts the location of the incident and recovered evidence. (Attachments 24, 25, 26)

The **Major Crime Scene Report** indicates that three weapons were inventoried: Officer A's Sig Sauer semi-automatic handgun, a Leinad semi-automatic handgun recovered from the

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street at XXXX S. Prairie, and a Smith and Wesson semi-automatic handgun recovered from the side yard of XXXX S. Prairie. (Attachment 13)

A report from the **Illinois State Police Division of Forensic Services (“ISP”)** dated 21 December 2006 indicates that the two recovered handguns were submitted for latent impressions but there were no such impressions suitable for comparison. (Attachment 19)

An **ISP report** dated 28 December 2006 indicates that Officer A’s weapon was examined and found to be in firing condition. Twelve fired cartridge cases and one fired bullet recovered from the scene were fired by Officer A’s weapon. The Smith and Wesson and Leinad were both examined and found to be in firing condition and test fired. Ten fired cartridge cases were attributed to the Smith and Wesson and three fired cartridge cases were attributed to the Leinad. Nine additional fired cartridge cases were identified as coming from two different handguns but did not match any of the handguns inventoried in this case. One fired bullet and six metal fragments could not be identified or eliminated as having been fired from any of the inventoried handguns. (Attachment 20)

An **ISP report** dated 11 January 2007 indicates that the gunshot residue collection kit administered to Subject 1 revealed that he either discharged a firearm, contacted an item that had gunshot residue on it, or had his right hand in the environment of a discharged firearm. The gunshot residue collection kit administered to Witness 1 revealed that he may not have fired a firearm with either hand. (Attachment 21)

Chicago Fire Department Ambulance Report indicates that paramedics found Subject 1 in the rear of XXXX S. Prairie. They treated Subject 1 for a gunshot wound to the right thigh and transported him to Christ Hospital. The paramedics noted that Subject 1 smelled heavily of alcohol. (Attachment 16)

Office of Emergency Management and Communications (“OEMC”) records provide an account of the incident that is consistent with the Summary of Incident. There were numerous calls to OEMC from people who reported that they heard shots in the area. None of the callers reported that they saw anything. Officers B and A also reported that they heard the initial discharge of shots. Officer B also reported that Officer A discharged his own weapon. Additional officers responding to the scene recovered Subject 1’s weapon. (Attachment 14, 15, 23)

In a statement with IPRA on 24 November 2008, **Officer B** provided an account of the incident that is consistent with the Summary of Incident, the related Department Reports and the account he provided to the Roundtable Panel. Officer B related that he and Officer A were conducting narcotics surveillance in the east alley of Prairie near 67th Street. During this surveillance, the officers heard loud gunfire just west of their location. Officer A reported the gunfire over the radio. Both officers started going toward where they heard the shots. Officer B’s jeans got stuck on a fence when he tried to go over it, rendering him immobile. Officer A went over the fence and approached Prairie. While he was stuck on the fence, Officer B saw a subject (Subject 1) exit the alley on the west side of Prairie and move in Officer A’s direction on the east sidewalk. Subject 1 was in a crouched position when he exited the alley, which Officer B

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described as Subject 1 bending down as he ran. Officer B heard Officer A yell, "Police, drop the gun." Officer B then lost sight of Officer A and Subject 1. Officer B heard multiple gunshots but could not tell who was shooting. Officer B was finally able to get off the fence and he went toward Prairie. He used his radio to call for assistance as he approached Prairie. He could not see anyone on the street but knew that Officer A and Subject 1 had both gone south. Officer B called Officer A's name and heard his voice behind one of the houses. Officer B ran to that location and saw Subject 1 on the ground. Officer A was standing next to Subject 1. Officer A told Officer B that Subject 1 threw a handgun along the wall of a house about twenty feet from where the officers were standing. Officer B went to that area and saw a handgun on the ground. Officer B stood by the gun and waited for an Evidence Technician. He did not touch or move the gun. Officer B did not speak to Subject 1 during the incident. (Attachment 28)

In a statement with IPRA on 24 November 2008, **Officer A** provided an account of the incident that is essentially consistent with the Summary of Incident, the related Department Reports and the account he provided to the Roundtable panel. Officer A related that he and Officer B were conducting narcotics surveillance when they heard loud gunshots. They reported the gunshots over the radio and started moving in the direction of the gunfire. They heard more gunfire and reported that on the radio as well. Officer A went over a fence and observed Subject 1 exiting the alley on the west side of Prairie. Subject 1 was leaning forward and holding a handgun in front of him with both hands, looking south on Prairie. Officer A announced his office and ordered Subject 1 to drop the gun. Subject 1 raised the gun in Officer A's direction. Officer A fired his weapon at Subject 1. Officer A was exiting the gangway onto the sidewalk when he fired. Subject 1 ran south in the middle of the street. He fired his gun back at Officer A several times as he ran. Officer A returned fire. Subject 1 crouched down behind a car and fired at him again. Officer A circled around the car. Officer A saw Subject 1 look at him and run. Officer A fired at Subject 1. Officer A explained that Subject 1 still had the gun in his hand and had already fired at Officer A several times. Subject 1 ran into a gangway and threw his gun to the ground near the north side of the building they were running next to. Subject 1 ran south into the lot behind the building. Subject 1 jumped over a fence and was trying to get enter a building when Officer A caught up to him and placed him into custody. When Officer B arrived at their location, Officer A directed him to where Subject 1 threw the gun. Officer A did not speak with Subject 1 at that point. One of the responding officers told Officer A that Subject 1 had been shot in the right thigh.

Officer A clarified his statements to the Roundtable panel and in the Department Reports regarding the fact that he initially did not state that Subject 1 fired at him. On the night of the incident, Officer A was not sure whether or not Subject 1 fired at him. After speaking to ADS A and at the Roundtable, Officer A replayed the incident in his head and returned to the scene. Officer A observed the rear window of the car that Subject 1 crouched behind was broken and that the broken glass was inside the car. Officer A realized that Subject 1 did fire at him from behind the car. After recalling that, Officer A recalled that Subject 1 also shot at him while they were running down the street before Subject 1 reached the car. (Attachment 29)

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CONCLUSION:

This investigation found that Officer A's use of deadly force was in compliance with Department policy. According to the CPD'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 involved 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."

Officer A's actions were in accordance with both conditions of CPD's deadly force policy. Officer A heard gunshots and then observed Subject 1 in the same area with a gun in his hand. It was reasonable for Officer A to assume that at least some of the gunshots he heard came from Subject 1, which is "a forcible felony which involved the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm." Subject 1 then refused to drop his gun when Officer A ordered him to do so and pointed and fired the gun at Officer A while trying to defeat his arrest by escape.