

INDEPENDENT POLICE REVIEW AUTHORITY

U #05-21

INVESTIGATION

SUBJECT: U# 05-21

OFFICER #1

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 36 years old;
On-Duty; In uniform; Year of Appointment – 1995

OFFICER #1’s

INJURIES: None Reported.

SUBJECT: “Subject 1”; Male/Black; 28 years old

SUBJECT’S

INJURIES: Multiple gunshot wounds. Treated at Christ Hospital. (Non-fatal)

INITIAL

INCIDENT: Traffic Stop

DATE/TIME: 14 July 2005, 1355 hours

LOCATION: 4100 block of West Cullerton
Beat 1012

SUMMARY OF INCIDENT:

On 14 July 2005, at approximately 1355 hours, Officer A and Officer B were riding in tandem vehicle formation with Officer C and Officer D on patrol on the 4100 block of West Cullerton. The officers observed Subject 1, who had a pair of handcuffs hanging from his belt and an apparent bulge in his waistband. The officers attempted to investigate but Subject 1 refused to submit to a field interview. Subject 1 shoved Officer A and fled into the residence on the 4100 block of W. Cullerton Ave. Officer A, Officer D and Officer C chased Subject 1 into the residence through the front entrance while Officer B ran to the rear of the residence. The officers attempted to arrest Subject 1 and a struggle ensued in the living room. Subject 1 used his handcuffs as a weapon, holding onto one cuff and swinging the other while it was open. Officer C sprayed Subject 1 with his OC spray but it had little effect. The OC spray struck Officer B directly on his face during the struggle. Officer B knelt down as a result. Subject 1 attempted to gain control of Officer B's weapon. Subject 1 and the officers continued to struggle. Subject 1 finally gained control of Officer B's weapon. Officer A ordered Subject 1 to drop the gun, but instead Subject 1 raised the gun. Officer A discharged his firearm once time, striking Subject 1's chest. Subject 1 ran out of the residence through the rear entrance and collapsed. An ambulance was requested and Subject 1 was subsequently transported to Mt. Sinai Hospital.

INVESTIGATION:

Subject 1 refused to cooperate with the investigation in any way. (Att. 34)

In a statement to Detective A and Detective B on 15 July 2005, Subject 1 identified himself as an undercover FBI Agent and gave his badge number as twelve. Subject 1 stated that he had not been given a gun for his protection because he was on probation. Subject 1 stated that he spent several years in the penitentiary on an undercover mission, during which he killed eleven terrorists. Subject 1 also stated that he had a bomb implanted in his leg that he could activate at any time.

Subject 1 stated that on the day of the incident he was on a mission for the FBI and was watching his mother's snow-cone stand in front of their residence when a marked squad car pulled up. When the officers approached him, he identified himself as an FBI Agent and told them that he did not want to speak to them. Subject 1 began to struggle with the officers because he did not want to cooperate with them. Subject 1 stated that during the struggle he may have touched one of the officers' guns, but he was never in control of any of the officers' firearms. Subject 1 stated that during the struggle he was shot in his chest, and that the fluid that came out of him was alien sewage and gases. Subject 1 seemed to believe that he was telling the truth and that he was an FBI Agent, so the interview was terminated. (Att. 11)

In a statement to the Roundtable Panel on 14 July 2005, Witness 1 stated that she was in her residence when her son, Subject 1, entered. Subject 1 told Witness 1 that the police were

outside and that he didn't know why they were there. Subject 1 did not tell his mother whether he had a conversation with the officer; he just said that the officers wanted to talk to him. When Witness 1 went to the door she saw four officers and asked if there was a problem. Two of the officers pushed past her and asked Subject 1 about the handcuffs. Subject 1 told them that they belonged to him. When one of the officers reached for Subject 1, he pulled away. Subject 1 told the officers that he bought the handcuffs and that he was an FBI agent, badge #12. Witness 1 stated that Subject 1 and the officers "began fighting." During the struggle one of the officers sprayed OC spray at Subject 1. Witness 1 stated that she was also affected by the spray so she looked down and tried to clear her eyes. Witness 1 then heard a single gunshot. Witness 1 looked up and saw a police officer with a gun in his hand. Subject 1 ran out the back door. Witness 1 followed the officers out the back door and saw Subject 1 lying on the ground.

Witness 1 related that Subject 1 has schizophrenia and suffers from hallucinations, but refuses to take his medication. Witness 1 further related that Subject 1 believes that he is an FBI agent and carries handcuffs every day. Witness 1 stated that Subject 1 has not carried a gun since 1991, and that at no time during the incident did she see him with a gun. (Att. 7)

In a statement to the Roundtable Panel on 14 July 2005, Witness 2, Subject 1's sister-in-law, stated that she was inside a bedroom with the door partially opened when she heard her mother-in-law talking to police officers in the apartment. Witness 2 closed the bedroom door when she saw police officers in the hallway. After closing the door, Witness 2 heard tussling in the hallway and banging on her bedroom's door. Witness 2 heard the officers repeatedly tell Subject 1 to stop fighting. Witness 2 heard a gunshot, but she was inside the bedroom at that

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point and did not know the circumstances. By the time Witness 2 left the bedroom, Subject 1 and the officers had left the apartment. (Att. 7)

In a statement to Detective C, Unit 640, on 14 July 2005, Witness 3 stated that at the time of the incident she was inside the home of her grandmother, Witness 1, and her uncle, Subject 1, was outside in front of the residence. Witness 3 stated that Subject 1 had a small badge and a pair of handcuffs hanging from his pocket. Subject 1 walked into the residence and Witness 1 closed the door. A few moments later, four police officers came to the front door. Witness 1 opened the door and spoke with the officers. The officers told her that they wanted to talk to Subject 1. Subject 1, who was standing behind Witness 1, told her that he did not want to speak to the officers. Witness 3 also stated that Subject 1 was making “karate gestures” towards the officers while telling them “I ain’t going with you.” Witness 3 stated that Subject 1 began fighting with three of the officers in the front hallway of the residence. Witness 3 stated that during the fight one of the officers “maced” Subject 1. Witness 3 stated that she was in the living room when Subject 1 and the officers began fighting. Witness 3 stated that she saw one of the officers (NKA Officer A) pull out his gun and tell Subject 1 to “stop right there.” Witness 3 could not see Subject 1 because he was in the hallway. Witness 3 then heard one gunshot and ran into Witness 1’s bedroom. (Att. 11)

In a statement to Detective C on 14 July 2005, Witness 4 stated that on the day of the incident he was watching television in a bedroom while his uncle, Subject 1, was outside on the front porch. Witness 4 stated that Subject 1 believed he was an FBI Agent and always carried handcuffs. Witness 4 stated that he heard Subject 1 come into the residence. Witness 4 then

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heard a commotion in the living room. Witness 4 exited the bedroom and saw three or four uniformed police officers in the living room speaking with his grandmother, Witness 1. Witness 4 could not hear their conversation. Witness 4 then saw Witness 1 extend her arms towards the officers to keep them away from Subject 1. Witness 1 said to Subject 1, “the police want to talk to you.” Subject 1 began fighting with three of the police officers. During the altercation Witness 4 heard Witness 1 say, “Don’t fight them, [Subject 1]” Witness 4 believed that during the altercation one of the officers sprayed Subject 1 with “mace.” Subject 1 continued to fight with the officers in the hallway. Witness 4 ran to the bedroom in the back of the residence near the kitchen. Witness 4 stated that he stood in the doorway of the back bedroom and saw one of the officers fall to the floor in the hallway and another officer tell Subject 1 to “get down.” Witness 4 stated he saw one of the officers discharge his firearm once at Subject 1. (Att. 11)

In a statement to Detective C on 14 July 2005, Witness 5 stated that on the day of the incident he was outside in front of his grandmothers, Witness 1’s, residence. Witness 5 stated that his uncle, Subject 1, was also outside. Witness 5 stated that Subject 1 believed he was an FBI agent and always carried handcuffs. According to Witness 5, two marked squad cars stopped in front of the residence and the officers began to talk to Subject 1. Subject 1 closed the outside gate and walked into the residence. Witness 5’s younger cousin opened the gate for the officers and the officers walked into the residence after Subject 1. Witness 5 stated that he followed the officers into the residence. Witness 5 stated that inside the residence the officers told Witness 1 they wanted to speak with Subject 1. Witness 1 then said to Subject 1 that the police just wanted to talk to him, but he replied he did not want to speak with the officers. Subject 1 and the officers began to argue about Subject 1’s handcuffs. Witness 1 stood between

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the officers and Subject 1. Witness 1 extended her arms to keep the officers away from Subject 1. Subject 1 exited a bathroom and began fighting with the officers. Witness 5 stated that he was standing in the front room, near the hallway, when he saw one of the police officers pull out his firearm and say to Subject 1, "Stop! Stop!" Witness 5 stated that he ran out of the house and that he then heard a gunshot. (Att. 11)

In a statement to Detective C on 14 July 2005, Witness 6, stated that on the day of the incident he was inside the residence when Subject 1 entered and told Witness 1 that the police were outside. The police spoke to Witness 1 first and then entered the residence and asked Subject 1 about his handcuffs. Subject 1 then began to fight with the police officers. Witness 6 stated that he then ran out of the residence. (Att. 11)

In a statement to Detective D on 14 July 2005, Witness 7, stated that he saw the police enter the residence. Subject 1 ran into the bathroom, took off all of his jewelry, and then exited the bathroom and began to fight with the officers. Witness 7 ran out of the residence. After he exited the residence he heard a gunshot. Witness 7 ran to the back and saw Subject 1 fall to the ground. (Att. 11)

In a statement to Detective E on 14 July 2005, Witness 8 stated that on the day of the incident he was inside the residence with several family members. Witness 8's uncle, Subject 1, was outside when the police arrived and attempted to speak to him about his handcuffs. Subject 1 entered the residence followed by the officers. In the living room the officers attempted to handcuff Subject 1, but he pushed them away. Witness 8 then heard a gunshot. Witness 8 could not see Subject 1 when he heard the gunshot. (Att. 11)

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In a statement to Detective E on 14 July 2005, Witness 9 stated that he was watching a movie with his uncle, Subject 1. Witness 9 saw “[Subject 1]” fighting with the police. Witness 9 looked outside and saw Subject 1 with his head down and pushing the officers against a wall. The officers and Witness 1 were yelling at Subject 1 to stop fighting. One of the officers discharged his firearm at Subject 1, who then ran out through the back door of the residence. (Att. 11)

The Case, Arrest, and Tactical Response Reports stated that Officer A, Officer B, Officer D, and Officer C saw Subject 1 with handcuffs and a bulge in his waistband. The officers approached Subject 1, intending on conducting a field interview. Subject 1 said to the officers, “Fuck you, I’m the FBI,” shoved Officer A and ran into the residence. The officers pursued Subject 1 into the residence and attempted to arrest him. Subject 1 became combative and attempted to strike the officers with his open pair of handcuffs. Officer C used OC spray in an attempt to subdue Subject 1, but he continued to fight with the officers. Officer B became incapacitated and was subsequently disarmed by Subject 1. Subject 1 pointed Officer B’s firearm at the officers, at which time Officer A discharged his firearm once at Subject 1. Subject 1 was struck by the fired round and dropped Officer B’s firearm. Subject 1 then fled the residence through the rear door. Subject 1 collapsed in the vacant lot behind the residence. (Att. 9, 10, 12-16, 18-29, 35-36)

A canvass of the location of incident did not produce any additional information. (Att. 17)

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Mt. Sinai Medical Records indicate that Subject 1 arrived at the emergency Room with a gunshot wound to the left side of his chest. Subject 1 received a chest tube and then was brought to the operating room due to signs of possible pericardial tamponade¹. (Att. 51)

A Report from the Illinois State Police Division of Forensic Services, dated 01 August 2005, stated that Officer A's firearm was examined and found to be in firing condition. The recovered fired casing was also examined and determined to have been fired from Officer A's firearm. The recovered fired cartridge casing was examined and determined to have been fired from Officer A's firearm. (Att. 37)

On 04 October 2006, Subject 1 pled guilty to Disarming a Police Officer and was sentenced to seven years in the Department of Corrections. (Att. 52)

In a statement to the Roundtable Panel on 14 July 2005, Detective F related that he went to Mt. Sinai Hospital to check on Subject 1's condition. Detective F spoke with Dr. H, who told him that Subject 1 was conscious and talking. Dr. H informed Detective F that Subject 1 identified himself as an FBI agent and that he had fought with the police officers. Subject 1 also told hospital personnel that he might have touched an officer's weapon. (Att. 7)

Officer D related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. (Att. 7)

¹ Per www.medicinenet.com: A life-threatening situation in which there is such a large amount of fluid (usually blood) inside the pericardial sac around the heart that it interferes with the performance of the heart.

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In a statement to IPRA on 17 November 2008, Officer D stated that on the day of the incident she was working with Officer C. Officer D stated that while on patrol on the 4100 block of west Cullerton she saw Subject 1 exiting a gangway with handcuffs hanging from his belt. Officer D also saw a bulge on his waistband. Officer D stated that the bulge she saw could have been a gun. Officer D, Officer C, and the officers from the other car, Officer A and Officer B, exited their respective squad cars and approached Subject 1 to conduct a field interview with him. Subject 1 said, "Fuck you, I'm FBI." Subject 1 then pushed Officer A and fled into the house. The officers pursued Thomson into the house and attempted to place him under arrest. Officer D stated that they began to struggle with Subject 1 in the living room and into a hallway. Officer D stated that Subject 1 punched and kicked at the officers. Officer D stated that they were unable to gain control of Subject 1 during the struggle. Officer C discharged his OC spray at Subject 1, and inadvertently sprayed Officer B's face. Officer B fell to the floor and Subject 1 attempted to pull Officer B's firearm from its holster. Officer D stated that she screamed, "He's trying to grab his gun!" Subject 1 pulled Officer B's gun from its holster and raised the gun towards the officers. Officer A then discharged his firearm once at Subject 1. Subject 1 dropped Officer B's gun to the floor and fled out the back door. Officer C and Officer A pursued Subject 1 out the back door. Officer D picked up Officer B's gun and gave it back to him. Officer D asked Officer B if he was alright and then ran after Officer C and Officer A and found them and Subject 1. Subject 1 was lying in an alley, bleeding from his chest. The officers then requested an ambulance. Officer D stated that during the struggle with Subject 1 she radioed a "10-1." Officer D stated that she sustained some bruising as a result of the struggle with Subject 1. (Att. 41)

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Officer C related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. (Att. 7)

In a statement to IPRA on 18 November 2008, Officer C stated that on the date of the incident he was working with Officer D. Officer C stated that he and Officer D were on routine patrol with Officer B and Officer A. On the 4100 block of west Cullerton they saw Subject 1 with handcuffs hanging from his pants and a bulge in the front of his waistband. The officers exited their squad cars and approached Subject 1 intending to conduct a field interview. As the officers approached, Subject 1 pushed Officer A and ran into the first floor apartment. The officers pursued Subject 1 into the residence to arrest him for Battery to Officer A. The officers entered the living room and Subject 1 began to swing the handcuffs at the officers. Officer C stated that he produced his OC spray and sprayed Subject 1 in an attempt to subdue him. Officer C stated that the OC spray did not have any effect on Subject 1 as he continued to swing the handcuffs at the officers. Officer C stated that Officer B, who was the closest officer to Subject 1, was affected by the OC spray. During the struggle Subject 1 was able to pull Officer B's firearm from its holster. Officer C heard someone say words to the effect, "He's got your gun." Officer C saw Subject 1 raise his arm and then he heard a gunshot. Officer C stated that at the time he did not know who had fired the shot. Officer C stated that Subject 1 dropped the gun to the floor and ran out of the residence through the back door. Officer C and Officer A ran out through the back door and pursued Subject 1 into the empty lot across the alley. Subject 1 collapsed and an ambulance was requested. Officer C stated that he sustained swelling and bruising to his head and body as a result of the incident with Subject 1. (Att. 44)

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Officer B related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. (Att. 7)

In a statement to IPRA on 18 November 2008, Officer B stated that on the date of the incident he was working with Officer A. Officer Band Officer A were on routine patrol with Officer D and Officer C when he saw Subject 1 exit from between two buildings. Officer B stated that he saw a pair of handcuffs hanging from his waist and a bulge in the front of his waistband. The officers stopped and approached Subject 1 to conduct a field interview. Subject 1 told the officers that he was an FBI Agent and shouted out random numbers. Subject 1 then began to “cuss at” the officers. Subject 1 then pushed Officer A and ran into the house through the front entrance. Officer D, Officer C, and Officer A followed him. Officer B believed that Subject 1 might run through the house and out the back door so he ran around to the back and entered the residence through the back door. Officer B stated that he heard a lot of commotion and yelling. Officer B stated that he ran to the living room and saw Subject 1 pulling away from the officers. Officer B stated that during the struggle Subject 1 swung his handcuffs at the officers. Officer B backed up and Officer C discharged his OC spray at Subject 1. Officer B, however, was sprayed directly in the eyes. Officer B backed away in an attempt to get away from Subject 1 when Subject 1 “jumped on” him. Officer B stated that Subject 1 punched and kicked him and “went for” his firearm. Officer B went down to his hands and knees and tried to cover himself and his weapon from Subject 1. Officer B could not see because of the OC spray in his eyes. Officer B stated that Subject 1 was able to pull his (Officer B’s) gun from its holster while he was on the floor. Officer B then heard Officer D yell, “He’s got his gun!” and a gunshot. Officer B stated that Officer D eventually handed him his gun. Officer B stood up and

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made his way to the back door to where he thought the other officers had run. Officer B stated that he was unable to see and a 010th District officer transported him to the hospital where his eyes were washed out. Officer B stated that he also sustained bruising to his arms and neck. (Att. 47)

Officer A related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. (Att. 7)

In a statement to IPRA on 18 November 2008, Officer A stated that on the date of the incident he was working with Officer B and patrolling with another unit, Officer D and Officer C. In the front yard of a residence on the 4100 block of west Cullerton he saw Subject 1 with a pair of handcuffs hanging from his waistband and a bulge at the front of his waistband. The officers stopped and approached Subject 1 for a field interview. Officer A stated that Subject 1 told him that he did not have to talk to him and that he was an FBI Agent. Officer A followed Subject 1 up the front stairs of the residence while speaking to him. Officer A stated that Subject 1 pushed him down a couple of stairs and went inside the residence. Officer A and the other officers followed Subject 1 into the residence to place him under arrest. Once inside the residence, Subject 1 swung the handcuffs at the officers as the officers attempted to gain control of him. The officers attempted to grab Subject 1, but he pulled away and continued to swing the handcuffs at them.

During the struggle Officer C discharged his OC spray, which affected everyone. Officer B was struck directly with the OC spray and fell to the floor. Subject 1 jumped on Officer B's

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back and fought with him. Subject 1 then pulled Officer B's gun from its holster. Officer D yelled, "He's got a gun!" The struggle continued into the hallway, towards the kitchen, and Subject 1 raised the gun towards the officers. Officer A ordered Subject 1 to drop the gun, and when he did not do so, Officer A discharged his firearm once at Subject 1, striking him on the left side of his chest. Subject 1 dropped the gun and ran out of the residence through the rear entrance. Subject 1 ran through the backyard, across the alley, and collapsed on the parkway. The officers pursued Subject 1 and requested an ambulance. (Att. 50)

CONCLUSION AND FINDING:

This investigation found that Officer A's use of deadly force was in compliance with Chicago Police Department policy. 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 involved the infliction, threatened infliction, or threatened use of physical force like to cause death or great bodily harm;
 - b. attempted 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 met the requirements of the Department's deadly force policy. The involved officers provided separate and consistent accounts of the incident, that Subject 1 fought with the officers and disarmed Officer B. Subject 1 then raised the gun at the officers, and fearing for their safety and his own, Officer A discharged his firearm at Subject 1. It was reasonable that the officers feared for their safety when Subject 1 had already fought with the officers, disarmed Officer B and then pointed Officer B's gun at them. Subject 1 subsequently pled guilty to Disarming a Police Officer.