

INDEPENDENT POLICE REVIEW AUTHORITY
PUBLIC REPORT OF INVESTIGATION

INVESTIGATION

NUMBER: U# 08-17, Log #1017381

OFFICER(S)

INVOLVED: “Officer A” (Chicago Police Officer) -- Female/Indian; 27 years old; On-Duty; In uniform, Year of Appointment-2007

“Officer B” (Chicago Police Officer) – Female/Black; 39 years old; On-Duty; In uniform, Year of Appointment-1996

OFFICER

INJURIES: None reported

SUBJECT(S)

INVOLVED: “Subject 1” Male/Black; 29 years old

SUBJECT’S

INJURIES: Gunshot wound to right lower back area. Treated at Stroger Hospital (NON-FATAL).

INITIAL

INCIDENT: Officers observed subject holding a weapon

DATE/TIME

OF INCIDENT: 14 June 2008 at approximately 1935 hours

LOCATION:

5901 S. Michigan
Beat 233

SUMMARY OF INCIDENT:

On 14 June 2008, at approximately 1935 hours, Officer A and her partner, Officer B, were driving in their marked squad car west on 59th Street approaching Michigan. The officers observed a male subject (now identified as Subject 1) pointing a handgun toward the south. Subject 1 was standing at the southeast corner of 59th and Michigan. Officers A and Officer B exited the squad car and drew their weapons. The officers announced their office and ordered Subject 1 to drop his gun. Subject 1 turned toward the officers with his gun raised at which time both officers fired one round each at Subject 1. Subject 1 ran south on Michigan, dropping his weapon, and then continued running to 5932-34 S. Indiana where he attempted to hide in the front hallway. Subject 1 exited the hallway and collapsed onto the sidewalk in front of the Indiana address, where officers located him and placed him into custody. Subject 1's .45-caliber semi-automatic pistol was recovered near 5907 S. Michigan with eight live rounds in the magazine. Four .45-cal. casings were also recovered at that location. Blood was observed in the hallway at the 5932-34 S. Indiana address.

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Witness 1 related to the Roundtable panel that he was driving east on 59th Street and stopped his car at the traffic light at Michigan. Witness 1 observed a group of four or five young men in front of an apartment building at approximately 5907 S. Michigan arguing with a young man (Subject 1) who was standing closer to 59th Street. Subject 1 backed up toward 59th Street and pulled out a black handgun. Subject 1 pointed and fired his gun in the direction of the young men. Witness 1 was thirty or forty feet from Subject 1 when he fired. A marked squad car driving west on 59th Street stopped and officers (Officer A and Officer B) exited the squad car. The officers had their guns drawn, and Witness 1 heard the officers say “something” like “hold it” to Subject 1. Subject 1 turned toward the officers with his gun raised and Witness 1 heard a total of two or three gunshots. Subject 1 ran and the officers approached the area where Subject 1 had argued with the young men. Witness 1 did not see the officers fire their weapons.

Witness 2 related to the Roundtable panel that he was in his residence when he looked outside and saw a male (Subject 1) run west on 59th Street and south on Michigan. Subject 1 pulled out a black handgun and fired the weapon approximately ten times. Witness 2 could not see at whom Subject 1 was firing because his view was obstructed. A squad car stopped in the middle of 59th Street. Two officers (Officer A and Officer B) exited the car and said, “Drop the gun.” Shots were fired. Subject 1 ran and attempted to force his way inside an apartment building on the southeast corner of 59th Street and Michigan, but could not. Subject 1 put his gun down on the ground and ran south out of Witness 2’s view. Witness 2 did not see the officers fire their weapons.

INVESTIGATION (continued):

Officer B related to the Roundtable panel that she drove the squad car on 59th toward Michigan and stopped when she saw a male/black at the southeast corner. The male/black pointed a black gun toward the south along Michigan. The male/black stepped back. The officers exited their car, identified themselves and told the male/black to drop his gun. The male/black pointed his gun at the officers. Officer B fired one round at the male/black, who fled south on Michigan. The male/black dropped his gun near the first door of the apartment building at 5907 S. Michigan. The officers started chasing the male/black, who fled east in the alley south of the apartment building. Officer A secured the male/black's gun.

Officer B said she saw a male/black standing near a green car parked on Michigan, and she guarded him as a possible offender. The male/black who had pointed the gun did not say anything to either officer when they ordered him to drop his weapon. Officer B was approximately forty feet from the male/black when she fired at him. The male/black did not fire at the officers. Officer B identified Subject 1's photo from a photo array. It was still daylight when the incident occurred.

Officer A related to the Roundtable panel that as the squad car drove west on 59th Street, she saw a male standing on the southeast corner at Michigan. The male was holding a gun and pointing it south along Michigan. The male backed up. After the squad car stopped, Officers A and B exited and drew their weapons. The officers identified themselves to the male and told him to drop his weapon. The male turned and pointed his

INVESTIGATION (continued):

weapon at the two officers, who fired at him. The male fled south on Michigan, and Officer A started to chase him. Officer A stopped at the southeast corner and looked south along Michigan before proceeding. Officer A saw the male run south and then stop and place his gun on the ground. The male went east in the alley under the CTA elevated tracks that are south of 59th Street. Officer A secured the male's gun. Officer B secured a male who was squatting near a green car parked on the east side of Michigan. Officer A radioed a flash message that included a description of the male. Officer A was forty to fifty feet from the male when she fired at him. Officer A also identified Subject 1's photo from a photo array. The male did not say anything during the incident and did not fire his weapon at the officers.

A Chicago Police Department Detective related to the Roundtable panel that he went to Stroger Hospital to interview Subject 1, who sustained a gunshot wound in the right side of his back, with a bullet lodged. The detective was able to speak to Subject 1 while he was being treated. The only information Subject 1 told the detective was that he had been shot by the police.

In an interview with the Reporting Investigator (R/I) on 15 Jun 08, Witness 1 said that after he saw the group of males arguing on the east sidewalk of Michigan at 59th Street, one of the males backed up from the group and pulled out a black gun.

INVESTIGATION (continued):

The male backed toward 59th Street. Witness 1 heard two or three shots. The male with the gun appeared to want to turn east down 59th Street. Witness 1 saw two female officers, who were already outside of a marked squad car, holding guns. The two officers said something to the male with the gun, who turned toward the officers while still holding his weapon. Witness 1 heard two shots. The male with the gun ran south on Michigan and tried to enter an apartment building by hitting the door with his shoulder. The male could not enter the building. The male with the gun ran south on the sidewalk, but Witness 1 did not see where he went. Witness 1 did not see the male place his gun anywhere. The officers told the males on the scene to “stay down” in order to control them. Witness 1 did not see either officer recover a weapon. Witness 1 said his daughter, Witness 3, 14 years-of-age (YOA), and son, Witness 4, 18 YOA, were in his car at the time of the incident.

Witness 4 declined to be interviewed by the R/I during a visit to Witness 4’s home. Witness 1 did not respond to requests from the R/I for permission to interview Witness 3.

Attempts to interview Witness 2, 17 YOA, were unsuccessful. The attempts included phone conversations with his mother and personal visits to their residence.

In an interview with an Investigator on 14 June 08, Witness 5 stated that he was walking south on Michigan toward 59th Street when he saw a male/black pointing a gun

INVESTIGATION (continued):

in his direction. Witness 5 stopped and crouched down to the street. Witness 5 suddenly heard gunshots while on the ground. Witness 5 felt a female officer grab him and place him in handcuffs. Witness 5 did not witness any officer or the male/black discharge their weapons.

The report from a Chicago Police Department Assistant Deputy Superintendent (ADS) included an account of the incident that is consistent with the Summary of Incident. The ADS added that the persons fired at by Subject 1 fled the scene and that Witness 5 was released after it was determined that he was not involved.

The canvass produced no witnesses.

Subject 1 refused to be interviewed by the R/I.

The Ambulance Report indicates that on 14 June 2008, at 1941 hours, paramedics responded to 5934 S. Indiana and observed Subject 1 on the sidewalk with a gunshot wound to his back. Subject 1 told the paramedics that he heard one gunshot. Subject 1 was transported to Stroger Hospital.

A Crime Scene Processing Report indicates that a gunshot residue (GSR) kit was administered to Subject 1 at the hospital.

INVESTIGATION (continued):

A report about the results of the GSR test from the Illinois State Police Division of Forensic Services (ISP) dated 06 December 2008, indicates that Subject 1 discharged a firearm, contacted a primer gunshot-related item, or had both hands in the environment of a discharged firearm.

A Crime Scene Processing Report indicates that Subject 1's weapon was a Springfield Armory USA .45-semi-automatic pistol that was recovered from the sidewalk.

An ISP report dated 29 Jul 08 reflects that one recovered 9mm cartridge casing was fired from Officer A's weapon and one 9mm casing was fired from Officer B's weapon. Officer B's and Officer A's weapons were examined, found to be in firing condition and test fired. The ISP report dated 29 Jul 08 further stated that the four recovered .45-cal. casings were fired from the same firearm, but no identification was made from the IBIS database. The caliber of a fired bullet jacket fragment could not be determined, but it was not fired from the officers' weapons.

An ISP report dated 23 Apr 09 indicates that Subject 1's .45-cal. pistol was examined, found to be in firing condition and test fired. The four recovered .45-cal. casings and the fired bullet jacket fragment were fired from Subject 1's pistol.

INVESTIGATION (continued):

An ISP report dated 26 Feb 09 indicates that a latent impression suitable for comparison was found on the recovered .45-cal. pistol.

An ISP report dated 14 May 09 indicates that the latent impression found on the .45-cal. pistol was made by the person whose fingerprints appear on the fingerprint card marked with Subject 1's name and IR#.

Forensic Services Photographs depict the scene of the shooting; where Subject 1 was found; and recovered evidence.

The summary of the transmissions on the disc from the Office of Emergency Management and Communications indicates that a female officer reported an "emergency," that she had a "man with a gun at 5-9 and Michigan," and that she "lost" the male, but that his gun was recovered. Chicago Police Department officers reported locating a male who fit the offender's description at 5934 S. Indiana. The subject had a gunshot wound to his back.

The General Offense Case Report indicates that the weapon Subject 1 had in his possession was reported stolen.

The trace summary from the Bureau of Alcohol, Tobacco, Firearms and Explosives indicates that the original purchaser of the weapon was Individual 1.

INVESTIGATION (continued):

The Arrest Report indicates that Subject 1 was charged with aggravated assault to a police officer and unlawful use of a weapon by a felon.

The detectives' Case Supplementary Report includes accounts of the incident from Officers B and A that are consistent with their Roundtable and IPRA accounts (summarized below). The Case Supplementary Report indicates that the weapon Subject 1 had in his possession was registered to Individual 1 and was reported stolen on 11 Apr 07. The Case Supplementary Report also includes an account from Witness 6, who said that he was outside of his residence and observed three male/black subjects, one of them whom he identified as Subject 1, arguing with a member of the Gangster Disciples named [Subject 2] and one of the other subjects had guns. Witness 6 said Subject 2, whom the detectives had not identified, controlled heroin and crack cocaine sales in the area near the shooting scene. Subject 2 told Subject 1 that Subject 1's younger brother could not sell narcotics in "Subject 2's" area. Subject 1 fired his weapon. Subject 2 and Witness 6 ran into a residence for safety. Witness 6 did not see police arrive, but did observe a female officer standing by the same gun that Subject 1 had held.

Attempts to contact Witness 6 were not successful. The attempts included visits to his previous addresses and calls to his previous phone numbers.

INVESTIGATION (continued):

Subject 1's criminal history report indicates that on 16 Dec 08, he was convicted of felony possession/use of a firearm related to the incident under investigation and was sentenced to four years in prison.

In a statement to the R/I on 30 Jan 09, Officer B related that while on patrol she observed a male black waving a gun while facing south at approximately 5901 S. Michigan. The male black was backing up towards Officers B and A. Officer B, who was driving, stopped the squad car and exited. Officer A also exited and radioed a flash message about the male black, giving a distress call. Officer B ran to the passenger side of the squad car. Officer A was on Officer B's right side. They announced their office and ordered the male/black to drop the weapon. The male/black turned towards the officers with the gun pointed in the officers' direction. Both officers fired one time at the male/black. Officer B was in fear for her life at the time she fired her weapon. The male/black ran south on Michigan and the officers chased him. Officer B secured one male on Michigan and Officer A secured the weapon from near the apartment building doorway. They then reported their weapon discharges. Officer B later learned that the male/black collapsed on Indiana and was placed into custody there. Officer B did not assist in placing the male/black into custody and did not see him after he ran from her and Officer A. Officer B did not see the male/black drop his weapon. She fired at the male/black at an angle.

INVESTIGATION (continued):

In her statement to the R/I on 30 Jan 09, Officer A related that she was the passenger in the squad car as it traveled west on 59th. Officer A saw a male/black on the southeast corner of 59th and Michigan. The male/black was holding a gun that was pointed south. The male/black was backing up. Officer A reported the emergency on her radio, stating that there was a man with a gun. The officers exited their squad car. Officer A positioned herself on the passenger side of the squad car, using the car as shielding. Officer A screamed, "Police! Drop your weapon!" The male/black turned his weapon toward the two officers. Officer A fired one round while in fear for her life. The male/black fled south on Michigan and then east through an alley or gangway. Officer A chased the male/black, who dropped his weapon. Officer A secured the weapon and radioed in a description of the male/black. Officer A stated that she and Officer B fired at the male/black from an angle. She was not aware of how the male/black was shot in the back. His back was not facing her when she fired.

In his statement to the R/I on 13 Apr 09, Officer C related that he was working with Officer D and responded to a distress call from Officers B and A. Approximately five to ten minutes after receiving the flash message, Officer C observed a male (Subject 1) lying in front of a residence at 5934 S. Indiana. Subject 1 was bleeding from his lower back and fit the description of the subject mentioned in the flash message. Subject 1 told the officers his name and stated that the police shot him. Subject 1 did not have a weapon when Officer C discovered him. Neither Officer C nor Officer D searched

INVESTIGATION (continued):

Subject 1. Officer C rode in the ambulance with Subject 1. Subject 1 offered no further information while in the ambulance.

In his statement to the R/I on 13 Apr 09, Officer D related that he was working with Officer C and observed Subject 1 lying on the grass near 5934 S. Indiana. Subject 1 fit the description sent out via the flash message. Subject 1 told the officers that the police shot him and that he was having difficulty breathing. The officers called for EMS and read Subject 1 his Miranda Rights while waiting for the ambulance. Officer D stated he did not observe any officers fire at Subject 1. Officer D did not observe a weapon in Subject 1's possession and did not see or speak to Subject 1 after he arrived at Stroger Hospital.

In his statement to the R/I on 21 Apr 09, Sgt. E related that he responded to a "man with a gun" call and observed Subject 1 lying on the ground at 5934 S. Indiana. As Sgt. E arrived, other officers (C and D) were already on the scene with Subject 1. Sgt. E ensured that medical attention had been requested. Sgt. E contacted the dispatcher and was provided the description of the offender, which fit Subject 1. Sgt. E never saw the gun that Subject 1 was reported to have pointed at officers.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officers A and B was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order No. 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."

Substantial evidence exists that supports the accounts of the incident from Officers A and B.

The witness, Witness 1, saw a male (Subject 1) argue with other males, back up toward 59th Street, pull out a gun and fire it at the other males. Witness 1 heard the two officers say something like "Hold it" to the male (Subject 1), who turned toward the officers with his gun raised. Witness 1 heard two or three shots and saw the male run.

CONCLUSION AND FINDING (continued):

The witness, Witness 2, saw a male (Subject 1) pull out a gun and fire it approximately ten times. Witness 2 heard the officers say, "Drop the gun," and then heard shots. The male ran, put his gun down and continued running south.

The witness, Witness 5, said he saw a male/black (Subject 1) point a gun in his direction. Witness 5 crouched to the street and heard gunshots.

The witness, Witness 6, told detectives that Subject 1 fired his weapon.

Subject 1 tested positive for gunshot residue on his hands, and one of his fingerprints was found on the pistol recovered along the path of the male who fled south along Michigan. Subject 1 told a Chicago Police Department detective that the police shot him.

The witness accounts support the officers' accounts that Subject 1 was armed with the pistol when the officers observed him at 59th and Michigan. Based on witness accounts and the GSR test result, Subject 1 had just fired the .45-cal. pistol. Witness 1's account was consistent with the officers' assertion that Subject 1 turned toward the officers with his gun. The officers reasonably believed that they were preventing death or great bodily harm to themselves when they fired at Subject 1 when he turned toward them with his gun.