

INDEPENDENT POLICE REVIEW AUTHORITY
PUBLIC REPORT OF INVESTIGATION

INVESTIGATION

NUMBER: Log# 1021556/U# 08-45

OFFICER(S)

INVOLVED: “Officer A” (Chicago Police Officer) – Male/White; 50 years old; On-duty; In uniform; Year of Appointment - 1997

“Officer B” (Chicago Police Officer) – Male/Hispanic; 33 years old; On-duty; In uniform; Year of Appointment - 2000

OFFICER(S)

INJURIES: None reported

SUBJECT(S)

INVOLVED: “Subject 1” – Male/Black; 21 years old

SUBJECT

INJURIES: Gunshot wound to right hand. Treated at a hospital. Non-Fatal.

INITIAL

INCIDENT: Officers were conducting a field interview

DATE/TIME

OF INCIDENT: 08 November 2008 at approximately 2358 hours

LOCATION:

6403 S. Hermitage
Beat 0725

SUMMARY OF INCIDENT:

On 08 November 2008, at approximately 2358 hours, Officers A, B, and C observed two male blacks standing in the mouth of an alley at 1719 W. 64th Street. The officers stopped their squad car to conduct a field interview. One of the male subjects (now known as Subject 1) fled east on foot after being given a verbal direction to stop. The other male black subject (now known as Subject 2) complied with the officer's request and was detained by Officer C. Officers A and B pursued Subject 1. As Subject 1 fled on foot, Officer C observed what he believed to be a shotgun and informed Officers A and B that Subject 1 had a shotgun on his person. As Officer A and B pursued Subject 1, he turned toward them and leveled a shotgun in their direction. Officers A and B each fired one round at Subject 1. Subject 1 was struck in the hand causing him to drop his weapon. Subject 1 was apprehended at 6633 S. Wood Street and observed to be bleeding from his hand. Subject 1 was transported via ambulance to a hospital. Two shotgun shells were recovered from the rear pocket of Subject 1's pants and a shotgun was recovered from the scene of the shooting.

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A Chicago Police Department Detective related to the Roundtable panel that during a canvass she spoke with a female who identified herself as Witness 1. Witness 1 related to the Detective that she heard a voice yell, "Shotgun, shotgun," and then heard two gunshots. Witness 1 looked out of her window and saw the police in the area. Witness 1 did not see anyone fire a weapon.

At the Roundtable, Officer A related an account that was consistent with the Summary of Incident. In addition, Officer A added that he gave verbal commands to Subject 1 to drop the shotgun, but as Subject 1 turned towards him and Officer B, he leveled a shotgun in their direction. Officer A fired one round at Subject 1 because he was in fear of his life and the life of Officer B.

At the Roundtable, Officer B related an account that was consistent with the Summary of Incident. In addition, Officer B added that he and his partners instructed Subject 1 to stop but he walked away stating, "I gotta take a piss." Subject 1 then fled on foot. Officer B stated that he and Officer A chased Subject 1, he heard Officer C yell, "He's got a shotgun!" Subject 1 then turned towards Officers B and A and leveled a shotgun in their direction. After giving verbal commands to Subject 1 to "drop the weapon" Officer B fired one round at Subject 1 because he was in fear of his life and the life of Officer A.

INVESTIGATION (Continued):

A Chicago Police Department Detective related to the Roundtable panel that she interviewed Subject 1 at the hospital. Subject 1 related that he found the shotgun in an alley and that he was going to take it home. Subject 1 related that he did not know how to operate the weapon. The Detective interviewed Subject 1 a second time and informed him that officers recovered two shot gun shells from his clothing. Subject 1 related that he borrowed the weapon from a friend and hid the weapon in the alley. Subject 1 recovered the weapon after he and Subject 2 attended a birthday party.

Attempts to obtain an interview from Subject 1 by personal visit, and certified mail were unsuccessful. Subject 1 did not cooperate with the IPRA investigation.

The report from a Chicago Police Department Assistant Deputy Superintendent included an account of the incident that is consistent with the Summary of Incident. The Assistant Deputy Superintendent added that a shotgun was recovered on the scene.

In a statement with IPRA dated 10 November 2008, Witness 1 stated essentially the same information reported by the Detective to the Roundtable panel.

In a statement with IPRA dated 09 November 2008, Subject 2 stated that as he and Subject 1 were walking a marked police vehicle approached the alley at 64th and Wood Street. There were three officers in the squad car and the officers told Subject 2 and Subject 1 to come to the vehicle. Subject 2 walked to the squad car and Subject 1 stayed on the sidewalk crouched down holding onto his leg. The officers told Subject 1 to

INVESTIGATION (Continued):

come to the car again and Subject 1 stated, "I gotta pee. I gotta pee." Subject 1 then ran towards Hermitage Street and two of the officers (now known as Officers A and B) pursued Subject 1 on foot. Subject 2 stated that after Officers A and B began to chase Subject 1 he heard one shot. Subject 2 did not see who fired the shot. The driver officer of the squad car (now known as Officer C), handcuffed Subject 2 and placed him in the back seat of the squad car. As Subject 2 was in the backseat of the squad car, he saw Subject 1 run from an alley between Wood Street and Hermitage Street, to the sidewalk on Wood Street, and back into an alley. Subject 2 then saw Subject 1 fall to the ground. Subject 2 was then placed into a squadrol and transported to Area One where he was released without charges. Subject 2 stated that he was not in sight of Subject 1 or Officers A and B when he heard the gunshot. Subject 2 stated that to the best of his knowledge Subject 1 did not have a gun on his person and that he has never known Subject 1 to carry a gun.

The Tactical Response Report from Officer B indicates that he fired his weapon one time at Subject 1.

Officer B's Battery Report indicates that he did not sustain any apparent injuries.

The Tactical Response Report from Officer A indicates that he fired his weapon one time at Subject 1.

INVESTIGATION (Continued):

Officer A's Battery Report indicates that he did not sustain any apparent injuries.

The related Department Reports, including the Arrest Report, General Offense Case Incident Report, and Case Supplementary Report included an account of the incident that is consistent with the Summary of Incident. Subject 1 was charged with Aggravated Unlawful Use of Weapon – Under 21 Handgun 1st Offense and two counts of Aggravated Assault/Officer/Fireman.

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

The Crime Scene Processing Report indicates that a Mossberg, Model 500A, 12 Gage shotgun was recovered at the scene and inventoried under number 11494457. Officer A's weapon, a 9mm Smith & Wesson, Model 5943, was inventoried under number 11494437. Officer B's weapon, a 9mm Sig Sauer, Model P226, was inventoried under number 11494503.

A canvass was conducted but no additional witnesses were located who witnessed the incident.

INVESTIGATION (Continued):

The Chicago Fire Department (CFD) EMS incident Report indicates that on 09 November 2008, at 0012 hours, EMT's responded to the scene and observed Subject 1 with a gunshot wound to his right hand. Subject 1 was transported to a hospital.

Medical Records from the hospital indicate that Subject 1 was diagnosed with a gunshot wound to his right hand and sustained a fracture of his 5th and 6th metacarpal bones. Subject 1 was referred and transferred to another hospital for further medical treatment.

Medical Records from the other hospital indicate that Subject 1 was brought into the hospital with a gunshot wound to his right hand. Subject 1 was diagnosed with a fracture to his 4th and 5th metacarpal bones.

A report from the Illinois State Police, Division of Forensic Services, dated 25 November 2008, indicates that Officer B's weapon, Sig Sauer, Model P226, 9mm semiautomatic pistol was found to be in firing condition and test fired. Officer A's weapon, Smith & Wesson, Model 5943, 9mm semiautomatic pistol was found to be in firing condition and test fired. No testing was performed on the recovered shotgun.

In a statement with IPRA dated 17 November 2009, Officer C, stated that he was working with Officers A and B on the date of the incident in a marked squad car. The officers were driving westbound on 64th Street and observed Subject 1 and Subject 2

INVESTIGATION (Continued):

walking on the sidewalk. Subject 1 reached down as if he was going to pick up something and then looked at the officers. Subject 1 immediately stopped what he was doing and continued walking. Officer C asked Subject 1 and Subject 2 what they were doing and ordered them to the vehicle. Subject 2 walked toward the vehicle and Subject 1 continued to walk rapidly. At that point, Officer A and B exited the vehicle and gave verbal direction for Subject 1 to approach the vehicle. Subject 1 refused and fled on foot. As Subject 1 was running, Officer C detained Subject 2. Officer C observed Subject 1 pull out what appeared to be a shotgun from his right pants leg. Officer C stated that he was standing approximately twenty-five feet away when he observed Subject 1 pull out the shotgun. Officer C could not remember any specifics about the shotgun other than it being shorter than a regular shotgun. Officer C immediately shouted out that Subject 1 had a gun several times to Officers A and B as they pursued Subject 1. Officer C lost sight of Subject 1 and Officers A and B because they turned southbound onto Hermitage Street. Officer C then heard two gunshots and called out over the air that there were shots fired at the police. Officer C heard a description of Subject 1 and his direction of flight over the air from Officer A. Officer C then observed Subject 1 run through an alley. Officer C jumped in the squad car with Subject 2 to pursue Subject 1. Officer C arrived at Wood Street and observed that Subject 1 had been apprehended and placed into custody.

In a statement with IPRA dated 17 November 2009, Officer B stated he was working with Officers C and A. On 08 November 08 at approximately 2358 hours, they observed Subject 1 and Subject 2 entering an alley on 64th and Hermitage. As Subject 1

INVESTIGATION (Continued):

and Subject 2 exited the alley, Subject 1 dropped something from his jacket. Officer B stated that because of this suspicious behavior the officers exited their marked squad car. As they did so Subject 1 attempted to pick up the object he dropped but stopped. Officers A and C gave verbal direction for Subject 1 and Subject 2 to come closer for a field interview. Subject 2 complied, but Subject 1 proceeded to walk in a fast manner away from the officers, stating that he had to go to the bathroom. Officer C, who apparently had a vantage point, yelled out that Subject 1 was in possession of a shotgun. Subject 1 fled on foot and Officers B and A gave chase. Officer B removed his weapon from his holster while pursuing Subject 1. As Officers B and A gave chase, Subject 1 turned around and leveled a shotgun in their direction. Officer B stated that Subject 1 was approximately twenty-five feet away and did not completely stop running when he leveled the shotgun in his direction. Subject 1 did not fire the shotgun. Officer B described the shotgun as having either the stock or barrel being shortened. Officers B and A in fear of their safety both fired their weapons one time at Subject 1. Officer B stated that he did not know if he or Officer A fired first because it seemed simultaneous. Officer B stated that he was running and approximately thirty-five feet away from Subject 1 when he fired his weapon. Officer B was two to three feet behind Officer A and to his right when he fired his weapon. After the shots, Subject 1 dropped the shotgun and continued to flee. Officer B lost sight of Subject 1 but Officer A was on foot closer to him. Officer A gave a description of Subject 1 and his direction of flight over radio dispatch. Subject 1 was subsequently apprehended and placed into custody. Officer B stated that he realized that Subject 1 was shot once he was placed into custody.

INVESTIGATION (Continued):

In a statement with IPRA dated 13 November 2009, Officer A stated that on 08 November 08 he was working with Officers C and B. At approximately 2358 hours they observed Subject 1 and Subject 2 walking out of an alley. Subject 1 dropped something to the ground and attempted to pick the item up. Subject 1 looked at the officers and chose not to pick the item up. The officers approached Subject 1 and Subject 2 for a field interview. Officer C gave verbal directions for Subject 1 and Subject 2 to approach the officers and Subject 2 complied. Subject 2 stated that Subject 1 had to go to the bathroom. Officer A then gave verbal direction for Subject 1 to come to him. Subject 1 again stated that he had to go to the bathroom. As Officer A approached Subject 1, he began to walk away in a fast manner. Officer C yelled out that Subject 1 had a shotgun as Subject 1 fled on foot. Officer A removed his weapon from his holster and pursued Subject 1 along with Officer B. Officer B also removed his weapon from his holster while pursuing Subject 1. As Officers A and B gave chase, Subject 1 slowed down and turned the front of his body around and pointed a shotgun in the officers' direction. Officer A stated that Subject 1 was approximately thirty-five feet away when he turned the shotgun in his direction. Officer A stated that, fearing for his and the safety of Officer B, he fired one shot at Subject 1. Officer A stated that almost simultaneously, Officer B fired one shot from behind him to the right. Officer A stated that he gave Subject 1 verbal direction prior to Officer A discharging his weapon but he could not recall what he stated. Subject 1 immediately dropped his weapon after the shots were fired and continued to flee. Officer A radioed a description of Subject 1 and his direction of flight. Subject 1

INVESTIGATION (Continued):

was subsequently apprehended and placed into custody. It was then that Officer A noticed that Subject 1 had blood on one of his arms. Medical assistance was called and Subject 1 was taken to the hospital via ambulance.

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 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."

The actions of Officers A and B were in accordance with sections A(1) and A(2) of CPD's deadly force policy. Officer C observed Subject 1 to be in possession of a shotgun as he fled to defeat arrest and escape. Officers A and B stated that as they were pursuing Subject 1, he turned toward the officers and pointed a shotgun in their direction. Officers A and B then fired their weapons in fear of their lives. Officers A and B gave consistent accounts of the incident and a weapon was recovered on scene. Therefore, based upon the totality of the circumstances, Officers A and B were reasonably in fear of their life and fired at Subject 1 to prevent death or great bodily harm.