

INDEPENDENT POLICE REVIEW AUTHORITY
Log# 1064736/U #13-32

INVESTIGATION

NUMBER: Log #1064736/U #13-32

INVOLVED

OFFICER #1: “Officer A” (Chicago Police Officer); Male/Hispanic; 38 years old;
On-Duty; In Uniform; Year of Appointment – 2000

INVOLVED

OFFICER #2: “Officer B” (Chicago Police Officer); Male/White; 32 years old;
On-Duty; In Uniform; Year of Appointment – 2004

**OFFICER’S
INJURIES:**

None Reported

**SUBJECT/
OFFENDER**

“Subject 1”; Male/Black; 23 years old

**SUBJECT’S
INJURIES**

Gunshot wound to right thigh and graze wound to left leg. Non-fatal and treated at Cook County Hospital.

DATE/TIME:

07 SEP 2013/0209 hours

LOCATION:

410 E. 63rd Street/Beat 313

SUMMARY OF INCIDENT:

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This investigation, in conjunction with the information gained through the investigation initiated by the Chicago Police Department, revealed the following:

On 07 SEP 2013, at approximately 0209 hours, Officers A and B were working Beat 4521A/Violence Reduction Initiative Unit. They were taking a quick break from patrol in a vacant lot located at 6315 S. King Drive. While Officer A was outside of the unmarked police vehicle walking east, he observed Subject 1 standing on the north side of 63rd Street. Subject 1 subsequently fired a gun in an easterly direction and continued to do so as Officer A announced his office. Both officers then ran towards Subject 1, who continued firing his weapon, and Officer A discharged his weapon at Subject 1. Subject 1 then ran west on 63rd Street and when he reached King Drive, he turned around and pointed his gun at Officers A and B. The officers each fired their guns at Subject 1, Officer A doing so several times while Officer B fired just once.

Subject 1 subsequently fled into a building located at 6246 S. King Drive and both officers followed him. Officer A entered the same building and observed Subject 1 attempting to open an interior door. Subject 1, however, noticed Officer A and Subject 1 pointed his gun at Officer A. Officer A subsequently fired his weapon at Subject 1 but he (Subject 1) was able to gain entry into the building from the foyer. The two officers also entered the building and started searching for Subject 1, and noticed a blood trail on the second floor. Shortly thereafter, several additional officers arrived on the scene and assisted in searching for Subject 1. A second blood trail was observed on the fourth floor that led into apartment #XXX. Responding officers entered the same apartment and observed Subject 1 lying on a mattress, pretending to be asleep. Upon confronting Subject 1, he was found to have gunshot wounds to his left leg and right thigh. Subject 1 was placed into custody by Officer C and Officer D, and then transported to Stroger Hospital for treatment of his injuries.

While the responding officers were in the apartment where Subject 1 had been apprehended, they observed an open window in the living/dining room area. They radioed officers outside of the building to check the area below their location. A search of that area recovered a semi-automatic handgun directly below the same window.

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Department Reports, the Tactical Response Reports (TRR) and the Officers' Battery Reports (OBR), all provided information that is consistent with the statements given by the involved officers. The **Detective Supplemental Case Report** adds that Subject 1 stated that he was a member of the Black Disciples street gang and members of the Gangster Disciples had been harassing him. On the date of this incident, he went to J&B Subs on 63rd Street where rival street gang members attempted to attack him. Subject 1 left the area, retrieved a handgun, and returned to 63rd Street. As Subject 1 walked towards Vernon Street, he observed a group of Gangster Disciples and fired his gun at them. Subject 1 then heard police officers announce their office and he ran from them while holding his gun in his hand. He added that he would never shoot at police officers and was only attempting to evade capture.¹ Subject 1 told the detectives that he mistook the officers as rival gang members. The same report also documents that the responding detectives spoke with **[Security Agent]**,² a security agent at the building at the location of this incident. [Security Agent] stated that while returning to the front desk after performing a check of the interior of the building, she heard gunshots and fell to the floor. She then heard a male voice yelling from the lobby area, followed by a loud noise and the sound of the vestibule door opening. [Security Agent] indicated that she did not observe Subject 1 enter the building but did see two uniformed police officers enter the structure. She added that apartment #XXX is listed as vacant.

The **OEMC** and **PCAD Reports** were collected and made part of this investigation. An analysis of said documents showed no information that is inconsistent with the facts as related by the involved officers. Attempts were made to contact all individuals who called 911. None of those individuals with whom the R/I actually spoke witnessed the incident.

The **Chicago Fire Department Ambulance Report** documents that EMS was dispatched to 6246 S. King Drive at 0234 hours in response to a gun shot victim. The report documents that Subject 1 was sitting at a bus stop and had sustained a gunshot wound to his left leg. The bullet passed through that limb and grazed his left thigh. Subject 1 indicated he was running when he was shot.

A **Response** by IPRA Investigator A was made to Stroger Hospital on 07 SEP 2013. IPRA Investigator A spoke with Doctor A regarding Subject 1's injury. Citing HIPPA regulations, Doctor A indicated that he could not disclose any information about Subject 1's injuries and/or condition. CPD detectives also responded to the hospital and noted the same injury as documented in the Ambulance Report.

Medical Records document that Subject 1 was initially treated at Cook County Hospital on 07 SEP 2013, at 0312 hours. A gunshot wound was noted on the right leg and a laceration to the anterior of the left leg was also observed.

1. Attempts to interview Subject 1 were unsuccessful. See Attachments #5, 32, and 46 for further details.

2. The R/I spoke with [Security Agent] on 07 SEP 2014, via telephone. She indicated that she did not actually witness the shooting and spoke with the detectives earlier on that date. She declined to provide a statement at that time. See Attachment #21 for further information.

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A **Canvass** of the area of the incident was conducted in an attempt to locate additional witnesses and/or evidence. No additional witnesses and/or evidence were located or obtained.

A **Police Observation Devise (POD)** was located at 6300 S. King Drive, but did not capture this Officer Involved Shooting.³

CTA video from surveillance cameras along the east 63rd Street portion of the Green Line Station showed Subject 1 walking east and crossing King Drive just north of 63rd Street. He continued walking east on 63rd Street and then out of view of the cameras. A few seconds later, several individuals standing in front of a sandwich shop and two individuals standing under a nearby bus stop shelter fled north on the east sidewalk of King Drive. Moments later, Subject 1 ran back into view of the camera followed by two white male, uniformed officers. One of the officers fired three shots at Subject 1, one of which struck the curb while the others struck the rear and side glass of the bus shelter. Subject 1 ran across King Drive and entered an apartment building on the west side of the street. The same officers followed Subject 1 but all individuals stepped out of the range of the cameras once they entered the structure.

Evidence Technician photographs depict the crime scene and the location of the recovered evidence.

A **Laboratory Report from the Illinois State Police** dated 29 OCT 2013 documents that evidence of gunshot power residue was not found on Subject 1's hands or not detected by the procedure.

A **Laboratory Report from the Illinois State Police** dated 26 NOV 2013 documents that the guns of the involved officers were test fired and found to be in firing condition.

A **Laboratory Report from the Illinois State Police** dated 28 APR 2014 documents that no latent prints suitable for comparison were recovered from Subject 1's gun.

A **Laboratory Report from the Illinois State Police** dated 18 JUL 2014, documents that Subject 1's gun was test fired and found to be operable.

In a To/From Report dated 27 FEB 2014, Witness Officer C, indicated that on 07 SEP 2013, she observed a gun in the courtyard of the building in which she was searching for Subject 1. Upon noting the firearm, she notified a supervisor.

In a To/From Report dated 14 FEB 2014, Witness Officer D, indicated that on 07 SEP 2013, he was informed by Officer C that she observed a firearm in the courtyard of the building where Subject 1 had been located. He relocated to where the gun was spotted and guarded it until to

3. The POD was located just south of 63rd Street, on the west side of the street. Although the camera rotated in a clockwise manner, it was facing away from the area of this incident when it occurred.

could be processed.

In his statement to IPRA on 11 APR 2014, Witness Officer D, indicated that while on patrol on 07 SEP 2013, at 0209 hours, he and Officer E responded to a dispatch call of Shots Fired at the location of this incident. When the officers came upon 410 E. 63rd Street, he and his partner entered the building via the main entrance where the involved subject was believed to be hiding. Upon entering the building, Officer F and Officer E noticed blood on the floor of the foyer entrance and followed the blood trail up the stairs to other floors of the building. The two officers systematically searched the hallways of the first, second, and third floors, but did not locate the involved subject. He and Officer E followed the blood trail to the fourth floor and noticed that it ended at the front door of an apartment. They knocked on the door and received an answer from an unidentified female subject. Officer F and Officer E explained the situation to the unidentified individual and requested permission to enter. They conducted a quick search of the unit and observed Subject 1 lying on a mattress in a closet that had been converted into a bedroom. Subject 1 was placed in custody and then told the officers he had been shot. Subject 1 was helped to a waiting ambulance where he was treated for his injury. Upon inquiry, Officer F stated he observed the involved subject bleeding from the leg when he was lying on the mattress. Officer F added that the involved subject was not armed when he was placed in custody but matched the clothing description given via the initial "Shots Fired" call.

In his statement to IPRA on 18 APR 2014, Witness Officer E provided essentially the same account of the incident as Officer F. Officer E indicated that when he entered the apartment where Subject 1 was finally apprehended, three or four unidentified individuals fled from the unit. He was not, however, able to obtain any further information regarding their identities.

In his statement to IPRA on 08 SEP 2013, Involved Officer A, provided his account of this incident in a manner consistent with all Department reports and the Summary portion of this report. Officer A stated he drew his weapon as he feared for his life as Subject 1 pointed his weapon at him. He added that he was approximately 75 to 100 feet from Subject 1 when he first fired his weapon, 45 feet away when he fired his weapon the second time, and then 35 feet the third time he fired while running towards Subject 1. While in the foyer of the apartment building, Subject 1 again pointed a weapon at Officer A, who, fearing for his life, fired one time at Subject 1. Officer A added that he and Officer B followed Subject 1 into the building and then heard an unidentified person running up the stairs. The two officers ran up to the second floor and cleared it without locating Subject 1. Officer A then heard knocking which he presumed was due to assisting units on the scene. He ran back to the first floor, allowed the additional officers to enter the building and began conducting a unit to unit search for Subject 1 on the first floor. Officer A was unable to locate Subject 1 and then exited the building in order to speak with a supervisor. At some point while speaking with a supervisor, Subject 1 was placed in custody by other units. Subject 1 was subsequently brought out of the apartment and Officer A positively identified him as the individual who fired a gun at him. Upon inquiry, Officer A stated that he made an immediate decision to fire his gun when Subject 1 fired at him. He added that Subject 1's actions placed him in fear of his life and he had no other alternative but to discharge his firearm.

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In his statement to IPRA on 08 SEP 2013, Involved Officer B, provided his account of this incident in a manner consistent with all Department reports, the Summary portion of this report, and Officer A account of the incident. Officer B added that he did not fire his weapon when Subject 1 initially fired at him and Officer A because Officer A was standing in his line of fire. As he and his partner were chasing Subject 1, Officer B fired one shot after Subject 1 turned towards him while holding a gun. Upon inquiry, Officer B stated he was in a shooting stance when he fired his gun, which he did only once. He estimated the distance between himself and Subject 1 as 25 feet when he fired at him.

CONCLUSION AND FINDINGS:

This investigation found that the use of deadly force by the involved officers was in compliance with Chicago Police Department Policy. According to the Chicago Police Department's General Order G03-02-03, Section II:

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- 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.

Based upon the evidence obtained as a result of this investigation, the actions of Officers A and B were in compliance with the aforementioned General Order regarding the use of deadly force. Subject 1 presented a grave danger to the Involved Officers by firing a gun at them and his actions exhibited a reckless disregard for the safety of nearby civilians. Subject 1's actions placed Officers A and B in imminent fear of great bodily harm or death.

Although Subject 1 did not cooperate with this investigation, the Case Report documents that when he spoke with detectives after being advised of his Miranda rights, he admitted to firing a handgun. Despite his belief that he was firing at rival gang members, Subject 1 was still an Assailant using deadly force regardless of at whom he was shooting. The mere fact that Subject 1 mistook police officers for rival gang members does not diminish his actions.

Officers A and B both stated that they observed Subject 1 fire his gun in their direction. Officer A, in particular, indicated that he initially returned fire and shot at Subject 1 multiple times as he (Subject 1) pointed a gun at him and/or his partner. Given this, as well as Subject 1's actions, there is no doubt that the Involved Officers fired their weapon at Subject 1 as they feared for their lives. Thus, based on the totality of the circumstances, the use of deadly force by Officers A and B was reasonable to prevent death and/or great bodily harm, and within Department guidelines.