

INDEPENDENT POLICE REVIEW AUTHORITY
PUBLIC REPORT OF INVESTIGATION

INVESTIGATION

NUMBER: LOG# 1004273/U# 07-06

**OFFICER(S)
INVOLVED:**

“Officer A” (Chicago Police Field Training Officer) —
Male/White; 38 years old; On-duty; In uniform; Year of
Appointment — 2000

“Officer B” (Chicago Police Probationary Officer) —
Male/Hispanic; 24 years old; On-duty; In uniform; Year of
Appointment — 2006

OFFICER

INJURIES: Minor bruises and swelling to right knee

SUBJECT(S)

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

SUBJECT

INJURIES: Gunshot wounds to the throat, stomach, left shin, right
knee, and back (Deceased)

INITIAL

INCIDENT: Street Stop

DATE/TIME

OF INCIDENT: 21 Mar 07, 1731 hours

LOCATION:

2901 W. Devon
Beat 2413

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SUMMARY OF INCIDENT:

On 21 Mar 07 at 1731 hours, Officers A and B were driving north on Francisco when they first saw Subject 1. As they approached Devon Avenue, they observed Subject 1 standing outside a liquor store, which is on the southwest corner of the intersection of Francisco and Devon. The officers observed Subject 1 concealing an unidentified object in his waist band. When Subject 1 saw the two officers he entered the liquor store. Officer A, the driver, parked the squad car in front of the liquor store, and then he and Probationary Police Officer (“PPO”) Officer B exited the squad and entered the liquor store. Moments later, the officers exited the liquor store with Subject 1 in their custody and ordered Subject 1 to place his hands on the wall of the liquor store. Subject 1 struggled with officers but did place his hands on the wall. As Officer B conducted the protective pat down, Subject 1 pushed off the wall and attempted to flee. A physical struggle ensued between the officers and Subject 1. Officer B placed his arms around Subject 1 in an attempt to gain control of Subject 1, at which time Subject 1 produced a handgun and pointed it at Officer A. Officer A drew his weapon and yelled “Gun!” several times. Officer B released Subject 1 and moved back and away from Subject 1. Subject 1 disregarded Officer A’s commands and continued to point the weapon at Officer A while walking backwards toward the northeast corner of Francisco and Devon. Officer A discharged his weapon two to three times and took cover near a parked vehicle on Francisco Avenue. Subject 1 turned and faced Officer A, again pointing his weapon at him. Officer A and Officer B discharged their weapons at Subject 1 striking him about the body and fatally wounding him.

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Witness 1 related to the Roundtable panel an account that was consistent with the Summary of Incident. In addition, Witness 1 stated that he was walking west on the north side of the Devon Avenue and observed a squad car parked on the southwest corner of the intersection of Devon Avenue and Francisco Street, in front of a liquor store. Witness 1 stated he observed a male subject walk into the liquor store followed by two male police officers. Witness 1 stated that approximately five seconds later, the two officers escorted the male subject out of the liquor store and instructed that individual to “get on the car.” The male subject, however, began struggling with the two officers by pushing them and attempting to flee. During the struggle the male subject displayed a “Black .45” gun and pointed it towards the officers. Fearing that he may be shot, Witness 1 ran north on Francisco Street. Witness 1 stated he heard six to seven gunshots but did not know who fired them. Witness 1 stated he turned around and saw the male subject lying on the ground. Witness 1 stated that he was approximately 20-30 feet away from the officers and the male subject prior to running.

Witness 2 related to the Roundtable panel an account that was consistent with the Summary of Incident, Witness 2 stated that at the time of the incident, she was in the backseat of a friends’ vehicle that was traveling east on Devon Avenue. Witness 2 stated she observed a police officer and an unidentified male subject engaged in a struggle on Francisco Street; the officer was holding the subject in a “bear hug.” As the officer and subject were struggling, the subject was holding a handgun in the air. The driver of the

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vehicle Witness 2 was in continued driving east on Devon Avenue and when they stopped at the intersection of Devon Avenue and Mozart Street, Witness 2 heard several gunshots. The driver of the vehicle then turned south on Mozart Street and drove back to Francisco Street. When they arrived at the corner of Francisco and Devon, Witness 2 observed a police officer standing over the male subject and pointing a gun at him. Witness 2 did not observe either the officer or the male subject discharge a weapon.

Witness 3 related to the Roundtable panel an account that was consistent with the Summary of Incident. Witness 3 stated that at the time of the incident she was working at a nearby store. Witness 3 stated she was cleaning the store when she heard multiple gunshots coming from an unknown direction. Witness 3 was not wearing her glasses at the time and was unable to determine where the gunshots originated. Witness 3 observed a male subject lying on the ground at the southeast corner of the intersection of Francisco Street and Devon Avenue. Witness 3 put her glasses on and observed a police officer standing over the male subject who tried twice to stand on his feet. Witness 3 observed the officer kick a gun to the side of the male subject.

Officer B stated to the Roundtable panel an account that was consistent with the Summary of Incident. Officer B stated he was working with Officer A. Officer B stated that at 1731 hours they were traveling north on Francisco, and noticed Subject 1 standing alongside a building situated at the southwest corner of the intersection of Devon Avenue

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and Francisco. Subject 1 was talking on a cellular phone and “fiddling” with the waistband of his pants. When Subject 1 saw the officers he started walking into the liquor store. Officer A instructed Subject 1 to walk to their squad car but Subject 1 ignored Officer A and walked inside the liquor store. Officer B stated he and Officer A entered the liquor store and observed Subject 1 standing near the register and escorted Subject 1 out of the store. Once outside of the liquor store Subject 1 appeared nervous and was fidgeting. Officer A instructed Subject 1 to place his hands on the building. Subject 1 initially complied with Officer A’s instructions but when Officer B began a “patdown” of Subject 1, he pushed himself away from the building and attempted to flee. Officer B grabbed Subject 1 in a “bear hug” in an attempt to stop him from fleeing. Officer A then yelled, “Gun! Gun! Gun!” Officer B observed Subject 1 pointing a gun at Officer A. Officer B released his grip and retreated as he pulled his firearm. Officer A then discharged his firearm several times and Officer B aimed his weapon at Subject 1 and fired four times. Subject 1 fell to the ground and Officer A approached Subject 1 and kicked Subject 1’s gun away. Officer B stated that he did not see where Subject 1 pulled his weapon from.

Officer A related to the Roundtable panel an account that was consistent with the Summary of Incident. Officer A stated that as Officer B was conducting a patdown, Subject 1 pushed his hands off of the wall. Officer A attempted to grab Subject 1 but was unable to do so because Subject 1’s arms were wet. Officer B was able to grab Subject 1

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and hold him in a “bear hug.” Officer A continued to struggle with Subject 1 and pulled out his handcuffs to handcuff Subject 1. Officer A stated that at that time, Subject 1 pulled a handgun from his waistband. Officer A yelled, “Gun! Gun! Gun!” and ordered Subject 1 to drop the weapon. Officer B released Subject 1 and withdrew his weapon and pointed it at Subject 1. Subject 1 continued waving the gun in the air and then pointed it at Officer A. In response, Officer A fired his gun two times at Subject 1 while retreating backwards to take cover behind a vehicle parked on the east side of Francisco Street. Officer A stated that as he was retreating, he observed Officer B standing in the middle of Francisco and shooting at Subject 1. Officer A stated that Subject 1 fell to the ground in a “push-up” position but was still holding his gun. Officer A again fired at Subject 1 before Subject 1 collapsed to the ground. Officer A stated he then approached Subject 1 and kicked the gun away from him.

In a statement to the IPRA on 13 Nov 08 Officer B provided an account of the incident that is consistent with the Summary of Incident, related Department Reports and the account he provided to the Roundtable Panel.

In a statement to the IPRA on 06 Nov 08 Officer A provided an account of the incident that is almost consistent with the Summary of Incident, related Department Reports and the account he provided to the Roundtable Panel with the exception that

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Officer A did not indicate in his statement to the IPRA that Subject 1 fell to the ground in a “push up” position as he had stated in his account to the Roundtable Panel.

In a statement to the IPRA on 12 May 09 a Chicago Police Department detective stated she was off-duty and driving east on Devon Avenue with two teenagers, whose names she no longer recalls. The detective was taking them on a tour of Chicago and as they drove east on Devon, the detective observed a squad car but did not pay much attention to it. Both teens stated, “He’s got a gun!” The detective thought they were possibly referring to the officers and still did not look in that direction. Immediately after, the detective [heard] gunshots and pulled her vehicle over while telling the teens to duck down. She clarified with the teens about who had a gun and they stated that a man who was not wearing a shirt had a gun and was fighting with the police officers. The detective returned to the scene to see if she could be of any assistance and observed the offender lying on the ground. The offender was still alive, trying to raise his head, and the two officers told him to stay on the ground. The detective offered assistance but was told to stay back. The detective did not observe anyone firing a weapon and did not observe the officers physically strike the offender at any time.

The report from a Chicago Police Department Acting Assistant Deputy Superintendent included an account of the incident that is consistent with the Summary of Incident.

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Canvasses were conducted however no witnesses were found. Additional attempts to contact potential witnesses via an additional canvass and letters were met with negative results.

The Tactical Response Reports from the involved officers indicate that Officer A fired six (6) times and Officer B fired four (4) times.

The Case Supplementary Reports from CPD detectives include accounts of the incident that are consistent with the Summary of Incident and the accounts provided at the Roundtable. Attempts to contact witnesses who were interviewed by detectives during their canvass, via letters, telephone calls and personal visits were met with negative results.

Witness 4 related to detectives that she was driving east bound on Devon when she observed a male/white running north toward Devon. Witness 4 heard police officers announce their office and order the offender to get on the ground. The male/white offender continued running and at that time David heard three to four gunshots, which she described as “warning shots.” Witness 4 observed the male/white stop and kneel but he refused to lie down. Witness 4 observed the male/white turn towards the officers and the officers fired at the male/white.

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Witness 5 related to detectives that he was in his vehicle when he observed an officer fire his weapon. Approximately fifteen seconds later Witness 5 observed a second officer fire his weapon. At that time the offender was on the ground. One of the officers kicked a gun away from the offender.

Witness 6 related to detectives that he did not witness anyone discharge a weapon but only observed a marked police car parked on or near the sidewalk at Francisco and Devon. Witness 6 observed several officers putting up yellow tape. Witness 6 explained to one officer that he lived in the area and he was allowed to pass under the tape to go home. In a telephone conversation, via a translator, Witness 6 related to the IPRA the same as he had previously related to detectives.

Witness 7 related to detectives that she was in a car traveling west on Devon when she observed a police officer shooting his weapon at a male offender. Witness 7 ducked her head down fearing for her own safety and heard approximately four gunshots. Witness 7 looked up and saw the male offender on the ground. In a telephone conversation with the IPRA Witness 7 related she attends college in Boston and related essentially the same information that she previously related to detectives.

Witness 8 related to detectives that he was in a car with Witness 2 and the off-duty Chicago Police Department Detective. Witness 8 was in the front seat, the detective

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was driving and Witness 2 was in the back seat. Witness 8 stated he looked to the right side of the vehicle and observed a policeman in full uniform behind a male /white with his arms wrapped around the male/white. The male/white was holding a black colored handgun in his right hand and was waving it in the air. The detective continued driving and approximately one block later Witness 8 heard approximately five gunshots. The detective drove around the block and stopped near the scene where he saw the male/white on the ground, unresponsive.

Witness 9 related to detectives that she was returning from her sister's house when she heard several shots. As she walked north on Francisco towards Devon, Witness 9 observed a man wearing blue jeans with no shirt on, falling face forward to the sidewalk on the southeast corner of Francisco and Devon. Witness 9 then noticed two uniformed police officers approach the man on the sidewalk with their guns drawn and pointed at him. Witness 9 crossed the street to the west side of Francisco.

Witness 10 related to detectives that he was at the liquor store when he observed a man walk into the store alone and stand at the counter. Two uniformed police officers entered the store and escorted him out of the store. Witness 10 heard a loud bumping sound on the store's east wall and went around the counter to stand at the entrance outside. Witness 10 observed the man struggling to free himself from the custody of the officers. The man attempted to cross the street with the officers still trying to hold on to

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him. One of the officers had fallen to the ground and the man had scratched the officer's arm, tearing his shirt. Witness 10 re-entered the store and heard several gun shots outside the store. Witness 10 went back outside and saw both officers pointing their guns at the man and more shots were fired, but he was unable to see who was doing the firing. The man was now on the sidewalk across the street. Witness 10 went back inside the store for fear of being shot.

The Office of Emergency Management and Communications ("OEMC") recording of the incident includes citizens calling "911" reporting shots fired in the alley and someone screaming. Shots fired with hits by the police were called in with the information that the offender pointed a weapon at officers who then fired at and struck the offender.

The Evidence Technician Photographs depict Subject 1 on the ground; a gun on the ground, several feet away from Subject 1's body; a United State's Postal Office mailbox with a bullet hole entry and bullet recovered; and the liquor store where Subject 1 initially entered.

A report from the Illinois State Police Forensic Services ("ISP") dated 12 Apr 07 reflects that of the fired evidence recovered during the autopsy, two (2) of the bullets were fired from Officer B's weapon; two (2) bullets recovered during the autopsy could

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not be identified or eliminated from either Officer B or Officer A's weapon; two (2) fired bullets and three (3) fired jacket fragments recovered from the scene could not be identified or eliminated as having been fired from Officer B or Officer A's weapon. The ISP report further indicated that Officer B and Officer A's weapons were examined, found to be in firing condition and test fired.

An ISP report dated 13 Jul 07 reflects that the results of the SEM/GSR evidence collection kit administered to Subject 1 indicated that Subject 1 may not have discharged a firearm with either hand. If Subject 1 did discharge a firearm then the particles were removed by activity, were not deposited, or were not detected by the procedure.

An ISP report dated 05 Sep 07 reflects that six (6) examined cartridge cases were identified as being fired from Officer A's weapon. The report further reflects that four (4) cartridge cases were identified as being fired from Officer B's weapon.

ISP reports dated 02 Nov 07 and 30 May 08 reflect that swabs from a Glock semiautomatic pistol (Subject 1's weapon) and a blood standard from Subject 1 were preserved and DNA from both were amplified and profiled. A mixture of human DNA profiles was identified and interpreted as a mixture of two people. A second major human female DNA profile was also identified. The DNA profile identified was not suitable to make a positive association to other profiles or standards. Subject 1 was excluded from the minor human male DNA profile.

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The Medical Examiner's Report indicates that there was an entry gunshot wound on the left side of Subject 1's neck with the bullet removed from the soft tissue of the right back; an entry gunshot wound on Subject 1's lower right back with the bullet removed from the right back; an entry gunshot wound on Subject 1's right buttock with the exit on the left upper abdomen leaving a stellate exit wound; an entry gunshot wound on Subject 1's left buttock with the bullet recovered from Subject 1's colon; an entry gunshot wound on Subject 1's right knee with the exit wound on Subject 1's right thigh; an entry gunshot wound on the middle of Subject 1's right heel with an exit wound on the right ankle and a gunshot graze wound on Subject 1's left leg.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officers A and B was in compliance with Department policy and state statutes. According to the Chicago Police Department's General Order No. 02-08-03, III. *Department Policy:*

- 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."

When Officers A and B began searching Subject 1 he attempted to flee from the officers, pulled a weapon from his waistband and aimed the weapon in the direction of Officer A. When they fired, the officers reasonably believed that they were in danger of death or great bodily harm from Subject 1. Subject 1 ignored the officer's verbal commands and was attempting to escape by means of a deadly weapon.