

INVESTIGATION

NUMBER: LOG# 1015185/U# 08-08

**OFFICER(s)
INVOLVED:** "Officer A" (Chicago Police Officer) - Male/White; 49 years old; On-duty; In civilian clothes; Year of Appointment -1991

**OFFICER
INJURIES:** None reported

SUBJECT: "Subject 1" - Male/Hispanic; 20 years old

**SUBJECT
INJURIES:** Gunshot wound to lower back. Treated at a hospital. Non-Fatal.

DATE/TIME 24 March 2008, 1207 hours

LOCATION: A muffler shop, Chicago, IL
Beat 2514

SUMMARY OF INCIDENT:

On Monday, 24 Mar 08, at approximately 0850 hours, a Hispanic male, now known as Subject 1 who was armed with a handgun, attempted to rob Witness 1 outside of the muffler shop and where Witness 1 is employed.¹ Witness 1 informed Subject 1 that he did not have any money. Subject 1 walked Witness 1 inside the muffler shop where Subject 1 attempted to rob another muffler shop employee. Witness 1 informed Subject 1 that he did not have access to large amounts of money at the muffler shop. Witness 1 also told Subject 1 that only the owner of the muffler shop handled the large amounts of money. Subject 1 asked when the owner would be at the muffler shop and Witness 1 informed Subject 1 that the owner was usually there on Thursdays. Subject 1 then provided Witness 1 with two telephone numbers and his name, [Alias 2], and asked Witness 1 to call him when the owner arrived at the muffler shop. Subject 1 received a phone call on his cell phone and Subject 1 stated to the caller that there was no money there and that the "big boss" had the money. Subject 1 then left the premises of the muffler shop and entered a red 1997 Ford Escort that was driven by an unknown offender. After Subject 1 left the shop, Witness 1 called the police to report the incident.

At approximately 0911 hours, uniformed officers arrived and the investigation was subsequently given to a tactical team for follow-up. At approximately 1036 hours, tactical officers from the 25th District arrived at the muffler shop.

The tactical officers devised a plan and set up surveillance at the location. Witness 1 was instructed to call Subject 1 using one of the phone numbers provided by Subject 1. Witness 1 informed Subject 1 that the owner of the muffler shop would be arriving later that day. Subject 1 stated he would go over to the muffler shop when Witness 1 informed him that the owner had arrived. Subject 1 called Witness 1 multiple times within the next half hour requesting updates and at some point, based on those conversations it became apparent that Subject 1 was watching the muffler shop from an unknown location. Subject 1 provided a description of several vehicles that arrived for service at the muffler shop, asking if the vehicles belonged to the owner of the muffler shop. Eventually, a red Jaguar pulled into the bay area of the muffler shop and Witness 1 called Subject 1 informing him that the owner had arrived. Subject 1 asked if the owner had arrived in the red Jaguar and Witness 1 confirmed that the owner had arrived in the red Jaguar.

Several minutes later Subject 1 walked to the muffler shop. Witness 1 observed Subject 1 pulling a mask around his face and holding a gun in his hand. Witness 1 recognized Subject 1 and the handgun from the earlier incident. Subject 1

¹ It was originally thought that Subject 1's last name was [Alias 1] due to his previous arrest information and the information he himself provided. However, it was later learned that his last name is [Subject 1].

Independent Police Review Authority
LOG# 1015185/U# 08-08

entered the office of the muffler shop with the handgun in his hand and encountered Officer A. Officer A announced his office and Subject 1 pointed the weapon at him (Officer A). Officer A fired his weapon at Subject 1 four times as he advanced toward Subject 1. Subject 1 began to back away from Officer A. Officer A stated Subject 1 continued pointing his weapon at Officer A as Officer A was firing his weapon. Subject 1 exited the office and turned and fled toward the street while still retaining possession of his handgun. Subject 1 dropped the weapon and fell on the ground in the parking lot of the muffler shop. Subject 1 was placed under arrest by officers and was subsequently transported to a hospital where surgery was performed and a bullet recovered.

INVESTIGATION:

On 24 March 2008, a Roundtable was conducted regarding this officer involved shooting. Two civilian witnesses, three responding officers and one involved officer/witness appeared.

Witness 1 related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Witness 1 stated that he was just getting out of his truck in the morning when a Hispanic/male, now known as Subject 1, came up behind him and pushed him against his truck saying, "Give me money motherfucker!" Witness 1 stated he felt something hard against his back and thought it was a gun. Witness 1 stated that he told Subject 1 that he only had \$20 U.S.C. on his person and offered it to Subject 1. Subject 1 said he wanted more money than that. Witness 1 spent approximately three minutes talking to Subject 1 because he wanted to try to calm Subject 1 down. Subject 1 seemed nervous and his hands were shaking. Subject 1 then had Witness 1 walk into the muffler shop, the whole time pushing a gun into Witness 1's back. Witness 1 stated that he told Subject 1 that he did not have any of the business' money and that they did not keep money at the muffler shop. Witness 1 stated that the owner of the muffler shop had the money and that he, Witness 1, was only the manager. Witness 1 stated that he offered Subject 1 some coffee in an attempt to get Subject 1 to relax and Subject 1 accepted. Witness 1 stated that Subject 1 was wearing a black mask over his face and took it off in order to drink the coffee. Witness 1 saw Subject 1's face and saw that Subject 1 was young.

Witness 1 then told Subject 1 that he was too young to be robbing people. Witness 1 stated that at some point Subject 1's cell phone rang and Subject 1 answered it and told the caller that he, Subject 1, had the "wrong guy." Subject 1 hung up the phone and asked when the owner would be in and Witness 1 told Subject 1 that the owner came in on Thursdays. Subject 1 told Witness 1 to call him when the owner was in and wrote down two telephone numbers for Witness 1 to call and told Witness 1 that his name was, [Alias 2]. The whole time he was in the office, Subject 1 kept his hand in his pocket and continued holding the gun.

Once Subject 1 left, Witness 1 conferred with the other employees, because he was unsure of what to do. After approximately twenty-five minutes Witness 1 called police. Uniformed officers arrived, then other officers, tactical officers, arrived who were not in uniform. Witness 1 stated that the tactical officers asked him to call Subject 1 and see if he would come back. Witness 1 stated that Subject 1 answered the phone and Witness 1 told him that the owner would be in after all. Subject 1 answered that he would be there in about twenty-five minutes. Witness 1 stated that Subject 1 called him back approximately ten times, asking if the owner had arrived. A customer in a red Jaguar arrived and his vehicle was put inside a bay area. Witness 1 called Subject 1 and told him that the owner had arrived in a different car than he normally drives. Subject 1 asked if the owner was driving the red Jaguar that had just driven in. Witness 1 stated that was the owner's vehicle and Subject 1 stated he would be there in two minutes.

Approximately two minutes later Witness 1 saw Subject 1 approaching the muffler shop on foot and informed the officers and another employee, Witness 2, that Subject 1 was the same person who had tried to rob him earlier. Subject 1 was wearing the same clothes he had been wearing in the morning. When Witness 1 turned back around he saw that Subject 1 had a gun out. Witness 1 recognized it as the same gun Subject 1 had earlier. The officers then told Witness 1 and Witness 2 to go to the back of the muffler shop, which they did. Witness 1 stated he then heard someone yell, "Hold it there!" Witness 1 then heard two gunshots. Witness 1 moved to the front of the muffler shop and saw Subject 1 on the ground in the parking lot, through the garage window.

Witness 2 related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Witness 2 stated that he was not at work at the time of the initial robbery attempt because he arrived after Subject 1 left. When Witness 2 arrived at work Witness 1 and the other employees told him what happened. Witness 2 stated he was present when Subject 1 returned for the second time. Witness 2 stood in the bay area with Witness 1 and two officers. The bay doors were closed but windows provided a view of the parking lot. Witness 2 watched Subject 1 approach the area. Witness 2 stated he observed Subject 1 wearing a ski mask over his face and wearing a "hoodie" or hooded sweatshirt over his head. Witness 2 stated that Subject 1 had his hands in his pockets but Witness 2 could not tell if Subject 1 had anything in his hands. Upon seeing Subject 1, Witness 1 positively identified Subject 1 as the subject.

The officers told Witness 2 and Witness 1 to go to the back of the muffler shop. Witness 2 stated he went to the back with Witness 1 and moments later heard 3-4 shots fired. Witness 2 and Witness 1 then ran back to the bay area of the muffler shop and looked out the window. Witness 2 saw Subject 1 on the ground and a gun next to him (Subject 1). Witness 2 saw one of the officers kick the gun away then handcuff Subject 1.

Officer B related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident. Officer B stated that he, Officer A, Officer C, and Sgt. E followed up on the attempted armed robbery at the muffler shop and learned that the subject, now known as Subject 1, was going to return. Officer B stated that he set up surveillance in a vehicle parked across the street from the muffler shop. Officer B stated he observed Subject 1 approach from the north of the muffler shop. Officer B explained that he received a description of Subject 1 earlier and the subject walking into the parking lot with his hood and mask on matched the description of Subject 1. Officer B stated he got on the radio and notified Officer A and Sgt. E that Subject 1 was approaching. Officer B stated he observed Subject 1 enter the muffler shop and moments later he heard four gunshots and observed Subject 1 running out of the muffler shop.

Officer B saw Subject 1 drop a handgun and then fall to the ground. Officer B approached Subject 1, placed him into custody and took Subject 1's mask off.

Sergeant (Sgt.) E related to the Roundtable panel an account of the incident that was consistent the Summary of Incident. Sgt. E stated that he and Officer D and Officer C set up surveillance inside of the muffler shop and Officer B set up surveillance outside. Officer A was inside of the office area and Sgt. E and Officer C were in the garage area. Sgt. E observed Subject 1 making his way to the door of the muffler shop; Subject 1 appeared to be crouched over and was walking in a hurried manner. Sgt. E stated he was standing in the doorway adjacent to the entrance of the muffler shop and entered the office at the same time that Subject 1 entered through the main entrance into the office. Subject 1 was holding his weapon in his hand, which was at his waist. Subject 1 then pointed the gun at Officer A. Sgt. E heard Officer A announce his office when Subject 1 entered the muffler shop. Sgt. E then observed Officer A discharge his weapon at Subject 1 several times. Subject 1 ran through the entrance of the muffler shop to the parking lot and fell on the ground.

A Chicago Police Department Detective (Det.) stated that he responded to a hospital. The Detective was informed that Subject 1 had sustained a gunshot wound to his left flank area and had been taken to surgery in stable condition.. The Detective stated he did not speak to Subject 1 because he was in surgery and remained in surgery when the Detective left the hospital.

Involved Officer A related to the Roundtable panel an account that was consistent with the Summary of Incident. Officer A stated that he stayed in the

office area of the muffler shop waiting for the individual, now known as Subject 1, who was involved in an earlier armed robbery attempt, to enter. One of the shop's employees indicated that Subject 1 was approaching. Subject 1 entered the muffler shop office holding his gun at waist level and upon entering, turned and pointed the gun at Officer A. Officer A stated his office to Subject 1 and ordered Subject 1 to drop the weapon. Officer A feared Subject 1 was going to shoot him so Officer A fired several rounds while advancing towards the doorway and Subject 1. Officer A stated that Subject 1 wavered, turned around, and ran out of the office. Officer A stated that Subject 1 still had the weapon pointed in his direction as he was turning to run. Officer A stated that Subject 1 ran into the parking lot, dropped his gun, and fell. Subject 1 was then placed under arrest. Officer A stated he was standing approximately 10-15 feet away from Subject 1 when he fired his weapon and never got closer than 6-10 feet as he was advancing towards Subject 1.

The related Department Reports, including the report of the Assistant Deputy Superintendent, Office of the First Deputy Superintendent, General Offense Case Report (the first attempted robbery), Original Case Incident Report, Arrest Report of Subject 1, Officer A's Tactical Response Report which indicates that he fired four rounds, Officer's Battery Report, Case Supplementary Report, Original Case Supplementary Report and Closed Supplementary Case Report, all provide an account of the incident that is consistent with the Summary of Incident.

The Chicago Fire Department (CFD) Ambulance Record indicates that paramedics found Subject 1 lying in the parking lot of the muffler shop, with a gunshot wound to the left flank area. Subject 1 was treated on the scene and transported to a hospital.

The Office of Emergency Management and Communications (OEMC) Event Query indicates notifications were made that shots were fired with hits and an ambulance was requested.

The Evidence Technician Photographs depict the scene of the incident and the locations of recovered evidence.

The hospital Medical Records indicate that Subject 1 was a trauma patient admitted for evaluation and treatment of a single gunshot wound to the left flank on 24 March 2008. Subject 1 was discharged 5 April 2008 into police custody.

A report from the Illinois State Police, Division of Forensic Services, ("ISP") dated 16 October 2008, indicates that Subject 1's weapon and cartridges were examined and revealed no latent impressions suitable for comparison.

A report from the ISP, dated 28 October 2008 indicates that of the recovered fired evidence, four (4) fired cartridges were fired from Officer A's

weapon; two (2) fired bullets were fired from Officer A's weapon; and metal fragments were unsuitable for comparison. Subject 1's weapon, a Tanfoglio revolver, was examined and appeared to be in firing condition, however, the hammer mechanism was not working properly and for that reason the weapon was not test fired.² Officer A's weapon, a Beretta 9mm semiautomatic pistol was examined, found to be in firing condition and test fired.

On 25 March 2008 IPRA conducted a canvass in the vicinity. One witness, Witness 3 was located and a statement was taken. Surveillance cameras located on the exterior of the business across the street from the muffler shop did not contain any images relevant to the incident. The cameras were not facing the direction of the muffler shop.

Witness 3 provided a statement to the IPRA and indicated that he was working as a mechanic at a nearby auto shop on 24 March 2008 when he heard about two or three shots. Witness 3 looked across the street to the muffler shop, and observed a male that he assumed was Hispanic, about eighteen to nineteen years old, wearing all black clothing with a red and a black mask, like a ski mask on his face. Witness 3 related that when he saw the male, the male was falling to the ground. Witness 3 saw some white males, who he believed were police officers, run toward the Hispanic male. The officers were yelling, "Get down on

² Upon initial external examination Subject 1's weapon appeared to be in firing condition, however upon further examination it was discovered that it would not function properly and was not test fired.

the ground!" Witness 3 stated that he walked outside. The officers, who had their guns drawn, checked and searched the male that was on the ground. Witness 3 stated that he did not know if the male on the ground had a weapon and did not know who fired the shots.

Witness 4 provided a statement to the IPRA indicating that he started work at 0800 hours 24 March 2008 and was changing into his uniform when Witness 1, the manager, and an unknown Hispanic male, now known as Subject 1, entered the store. Subject 1 had his face covered. Witness 4 stated that Witness 1 asked him for money but Witness 4 stated that he only had lunch money. Witness 1 told Witness 4 that Subject 1 had a gun. Subject 1 stated that he wanted more money. Witness 1 asked Witness 4 to go ask Witness 5, another employee, if he had money. Witness 5 was in the bathroom changing and told Witness 4 that he would be right out. When Witness 4 returned to inform Witness 1, Subject 1 was gone. Witness 4 stated that he was not present when Subject 1 returned for the second time as he had gone out for lunch. Witness 4 stated that he did not witness the officers shoot Subject 1.

Witness 5, who does not read, write or speak English, provided a statement in Spanish (the statement was subsequently translated to English) to the IPRA. Witness 5 stated that he got to work about 0740 hours on 24 March 2008 to open the auto shop. A co-worker, Witness 4, arrived right after Witness 5 so Witness 5 went to the bathroom. Witness 5 stated that he heard people

talking but could not understand what they were saying. Witness 5 then heard Witness 4, through the bathroom door, asking him if he had any money. Witness 5 exited the bathroom and Witness 4 and the manager, Witness 1, told him that a Hispanic male, Subject 1, had come into the shop with a gun and tried to rob the auto shop. Witness 5 stated that he did not see Subject 1. Witness 1 related to Witness 5 that he was still outside at his truck in the parking lot when Subject 1 approached him and put a gun into his back and demanded money. Witness 1 told Subject 1 that he did not have money and he did not have the key to the safe. Witness 1 told Witness 5 that he convinced Subject 1 to return later when the person who had the key to safe was at the shop. Subject 1 left his cell phone number so the shop could call him. Witness 5 stated that Witness 1 called the police as soon as Subject 1 left.

Three male white officers responded. Witness 1 then called Subject 1 back and told him the owner had shown up. Witness 5 stated that when the police officers saw Subject 1 approaching the shop they instructed Witness 5 and the other employees, Witness 2, Witness 6, Witness 4, and a male black customer to go into the back part of the auto shop. Minutes later, Witness 5 stated that he heard approximately four gunshots.

Witness 5 and the others returned to the front of the shop and Witness 5 observed Subject 1 on the ground. A silver colored gun or revolver was on the ground close to Subject 1. Witness 5 did not see which officer fired his weapon.

Witness 5 related that they all stayed in the back room and that only one officer stayed in the front office.

Witness 6 provided a statement in Spanish (the statement was subsequently translated into English) to the IPRA. Witness 6 stated that when he entered work in the morning, he observed a male with Witness 1 at the front of the store by the register. The male had his face covered but Witness 6 did not pay much attention to him. Witness 6 stated that a while later, Witness 1 told him that the male, Subject 1, wanted money and that Subject 1 had approached Witness 1 while he was in his truck, put a gun up to him and told Witness 1 that he wanted his money. Witness 6 stated that he continued working and left the shop a short time later to check on a stalled auto. When Witness 6 returned, uniformed police officers were at the shop. The uniformed officers then left and detectives arrived. Witness 6 stated that he was working on a car in the garage when he observed through the garage window the same male from earlier, Subject 1, walking towards the auto shop. One of the detectives told "them" to go to the back part of the garage so he, Witness 1 and Witness 5 all went and sat on the floor. Witness 6 stated that he did not know when Subject 1 entered the auto shop and could not hear the conversation between Subject 1 and the police. Witness 6 stated that he heard several shots but did not see the police fire their weapons. Witness 6 stated that he later saw the same male, Subject 1, who had been there in the morning, on the ground outside of the auto shop. Witness 6

saw a gun and some gloves next to Subject 1 on the ground. The gun was silver, big and long, and looked like a revolver.

Witness 2 provided a statement to the IPRA. Witness 2 stated that when he entered work about 0900 hours he heard that a male, Subject 1, had tried to rob the auto shop earlier that day. Witness 2 stated that Witness 1, the manager, was calling the police. Uniformed officers arrived and later, about 10:00 am, three detectives arrived. Witness 2 stated that during that time, Subject 1 had been calling the shop asking if the boss was there yet. Witness 1 had told Subject 1 earlier that the boss was the one that had the money. Witness 2 stated that eventually Witness 1 called Subject 1 at the phone number he had left and told him that the boss had arrived. Witness 2 stated that the Subject had obviously been watching the auto shop. A customer in a red Jaguar had arrived. When Witness 1 called Subject 1, Subject 1 said that he had seen him (apparently referring to the customer in the red Jaguar) and was on his way. Witness 2 could only hear Witness 1's end of the conversation.

Witness 2 stated that he, Witness 1 and one of the detectives were looking out the garage windows. Very quickly after Witness 1 hung up, Witness 2 saw Subject 1 walking toward the shop. As soon as he saw Subject 1, Witness 2 moved to the back of the shop with Witness 5, Witness 6 and Witness 1. Witness 2 did not see Subject 1 enter the shop. Witness 2 next heard 3-4 gunshots and then saw all the detectives run outside. After the shots were fired,

Witness 2 related that he did not really see Subject 1's face when he was on the ground. Subject 1 was wearing a ski mask. A chrome and white gun was on the ground by the Subject 1. Witness 2 saw the detectives kick the gun away from Subject 1 and handcuff him.

Witness 1 provided a statement to the IPRA. Witness 1 stated that when he was approached by the unknown male at his truck outside the shop, the male, now known as Subject 1, told him, "Give me your money or I'll kill you and your family!" When Witness 1 told Subject 1, in Spanish, that he had no money, Subject 1 told him, "Give me all your money or I'll kill you and your family." Witness 1 stated that Subject 1 was wearing all black clothing, pants and sweater and had a hard mask on his face. The mask was black and it covered Subject 1's face from the nose down to his chin. Witness 1 stated that Subject 1 was nervous and was holding a chrome .357 or .38 revolver. Subject 1 asked for Witness 1's wallet and Witness 1 replied that his shoes were worth more than his wallet. At this time Subject 1 began speaking to Witness 1 in Spanish. Subject 1 pushed Witness 1 into the muffler shop's office with the gun inside his sweater but still pointing the gun in Witness 1's direction. Witness 1 stated that once inside the shop, Subject 1 kept his mask on and was walking back and forth asking for the keys to the shop and the money. Witness 1 kept talking to Subject 1 to distract him and told him that their boss had the money and that the boss would be arriving later. Witness 1 offered Subject 1 \$20.00 and offered him coffee, telling him that he and the other employees were poor just like Subject 1

and that they did not have any more money. Witness 1 was able to convince Subject 1 to come back later, on Thursday, when their boss would be there. Subject 1 gave Witness 1 two phone numbers to contact him at when the boss came in. During the time that Subject 1 was in the office his cell phone rang twice and Subject 1 told the person on the other end that "he had the wrong guy" and "these motherfuckers are broke, they have no money, I'll see you later." The whole incident lasted approximately ten minutes, and then Subject 1 left.

After Subject 1 left, Witness 1 was very scared and confused, calling 911 approximately twenty-five minutes after Subject 1 left. Marked police units arrived and he showed them the paper with the phone numbers on it. Three unknown male white officers in plainclothes arrived and Witness 1 told them what had happened, giving them a description of Subject 1. The plainclothes officers told Witness 1 to call Subject 1 to see if he would come back. Witness 1 called Subject 1 and told him that his boss was coming today and not Thursday. Subject 1 asked Witness 1 if the boss was coming with money and Witness 1 told him that he did not know but that he was calling Subject 1 as he said he would because he did not want Subject 1 to retaliate against him. Witness 1 told Subject 1 that the boss would be there in twenty-five to forty minutes. After Witness 1's call to Subject 1 ended, Subject 1 called Witness 1 several times asking if the boss had arrived. Eventually Witness 1 told Subject 1 that his boss had arrived.

Subject 1 arrived at the shop approximately one minute after Witness 1 contacted Subject 1 and told him the boss had arrived. Witness 1 saw Subject 1 and ordered his workers to take the customer to the back. Witness 1 stated that when he turned his head back towards Subject 1, he observed that Subject 1 had placed the mask on his face and had his gun drawn and pointed toward the shop. Witness 1 was not a witness to the shooting.

Subject 1 refused to provide a statement to the IPRA on 25 March 2008 and advised that he would like to speak with a lawyer. In a letter dated 15 February 2009, addressed to OPS, Subject 1 stated that he would like to file a complaint against the CPD concerning the injury he received on 24 March 2008. Subject 1 indicated that he was shot in the back while trying to escape bullets shot by an officer during an alleged robbery attempt. Subject 1 stated that although a weapon was recovered, he did not have the opportunity to surrender. The officers used their weapons first, without warning. Subject 1 added that the officers also fabricated the incident by stating that they shot him in the leg. Subject 1 provided the name of his attorney. Correspondence from the attorney indicated that he was no longer representing Subject 1.³

In a statement to the IPRA on 27 Feb 09, the Involved Member Officer B provided an account that is consistent with the Summary of Incident, related Department reports and the account he provided to the Roundtable panel.

³ Although Subject 1 indicated he had a complaint against police officers he did not provide a Sworn Affidavit to support his allegations.

Officer B stated he ran toward the muffler shop after Subject 1 entered. As Officer B made it to the side of the shop he heard shots and then saw Subject 1 hobbling away. Subject 1 had a revolver in his right hand. Officer B believed the revolver to be silver in color. Officer B stated that Subject 1 dropped his gun to the ground and walked another five feet or so and then he fell to the ground. Officer B handcuffed Subject 1.

In a statement to the IPRA on 26 Apr 09, the Involved Member Sergeant (Sgt.) E provided an account that is consistent with the Summary of Incident, related Department reports and the account he provided to the Roundtable panel. Sgt. E stated that based on the fact that Subject 1 had left a street name, [Alias 2] he attempted to conduct a photo lineup using persons with a similar street name in an effort to identify him. Subject 1 was not identified at that time and thereafter the surveillance was set up at the muffler shop. Sgt. E stated that he observed Subject 1 approaching the muffler shop. Subject 1 had on dark clothing and was wearing a ski mask. Sgt. E observed Subject 1 in the doorway of the office pointing his weapon at Officer A. Sgt. E related that Officer A announced his office then fired his weapon and advanced on Subject 1 at the same time. Subject 1 was moving backwards and sideways and ultimately exited the muffler shop.

In a statement to the IPRA on 27 Feb 09, the Involved Member Officer C provided an account that is consistent with the Summary of Incident and related

Department reports. Officer C stated that he was located in the garage bay looking out through the garage window when he observed Subject 1 coming around the corner into the parking lot of the muffler shop. Officer C did not see Subject 1 carrying a gun at that time. Officer C stated that the employees were in the back of the garage. Officer C indicated that he left his position and ran to the front office once he saw Subject 1 approaching the shop. Officer C stated that Sgt. E was in front of him. Officer C was still in the garage area approaching the front office when the shooting occurred. Officer C could not see what was going on inside the office and did not observe Officer A fire his weapon. Officer C he heard some yelling from Officer A. Officer C believed that Officer A yelled out "Police." When Officer C entered the office area, Officer A was running out of the front door. Officer C did not see Subject 1 inside the office. Officer C stated that he observed Subject 1 outside, on the ground, with a handgun on the ground next to him.

In a statement to the IPRA on 19 Feb 09, the Involved Member Officer A provided an account that is consistent with the Summary of Incident, related Department reports and the account he provided to the Roundtable panel. Officer A stated that when he first observed Subject 1 come in the front door of the muffler shop, Subject 1 was wearing a black hooded sweatshirt or "hoodie," had a mask over his face, and was armed with a gun.

Independent Police Review Authority
LOG# 1015185/U# 08-08

As Subject 1 entered the shop, Subject 1 turned and pointed the gun, a silver revolver, at Officer A. Officer A stated that he believed he stated "Police" and announced his office but he could not recall his exact words. Officer A stated that after announcing his office, Subject 1 continued to point his weapon, so he Officer A fired several shots at Subject 1. Officer A stated that when Subject 1 pointed his weapon and during the course of his firing his weapon Officer A believed that Subject 1 had fired his weapon. Officer A later learned Subject 1 had not fired his weapon. Officer A stated that as he was advancing toward Subject 1, Subject 1 was moving. Subject 1 bounced off the wall from his back and moved a little side to side. Officer A stated that Subject 1 exited the shop sideways with the gun still pointed at Officer A.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A was in compliance with Chicago Police Department Policy. According to the Chicago Police Department's General Order 02-08-03, III DEPARTMENT POLICY, A1 and A2, a, b, c.

- 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;
 - 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."

Officer A's actions were in accordance with the Department's requirements deadly force policy. Officer A and his Tactical Team members were advised that Subject 1 had attempted to rob Witness 1 at gunpoint during the morning hours of 24 March 2008 in the parking lot of Witness 1's place of employment, a muffler shop. Subject 1, who was wearing a mask, threatened to kill Witness 1 if he did not give him money. Because Witness 1 had no money,

Subject 1 marched Witness 1 into the muffler shop and attempted to rob another employee by the name of Witness 4. Ultimately Witness 1 asked Witness 4 to check to see if yet another employee had money for Subject 1. This employee, Witness 5 was in the bathroom. Subject 1 failed in his first robbery attempt, a forcible felony, because the muffler shop employees had no money. Witness 1 told Subject 1 that the owner of the shop had the money and that the owner would be coming to the shop later. Subject 1 then told Witness 1 that he was leaving but would return when the owner was present. Subject 1 left a paper with his telephone numbers on it and told Witness 1 to call him when the owner with the money arrived at the shop. The police were notified and set up surveillance and had Witness 1 contact Subject 1 and tell him that the owner had arrived. Shortly after the call, Subject 1 was observed approaching the muffler shop.

Subject 1, gun in hand and wearing a mask, entered the muffler shop office and pointed his revolver at Officer A, his intended robbery victim. Officer A, in fear for his life, the lives of his fellow officers and the lives of the muffler shop employees, announced his office and fired four shots at Subject 1 who continued to point his weapon. Subject 1 fled the office, backing out side-to-side, gun in hand and still pointing it at Officer A. Subject 1 fell wounded in the parking lot, gun at his side, and was apprehended.

Independent Police Review Authority
LOG# 1015185/U# 08-08

Officer A reasonably feared for his life and the lives of others when Subject 1 entered the muffler shop office armed with a revolver and wearing a mask to commit committing an armed robbery, his admitted intention.