

INDEPENDENT POLICE REVIEW AUTHORITY
PUBLIC REPORT OF INVESTIGATION

INVESTIGATION

NUMBER: Log #1005281; U #07-08

OFFICER(S)

INVOLVED: “Officer A” (Chicago Police Sergeant); Male/White; 46 years old; On Duty; In Uniform; Year of Appointment – 1982

OFFICER

INJURIES: None Reported

SUBJECT(S)

INVOLVED: “Subject 1”; Male/Black; 20 years old

SUBJECT

INJURIES: “Subject 1” – (1) gunshot wound to right thigh and (1) gunshot wound to right wrist; non-fatal

INITIAL

INCIDENT: Armed Robbery

DATE/TIME: 28 April 2007, 0335 Hours

LOCATION: 3947 W. Washington
Beat 1122

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SUMMARY OF INCIDENT:

On 28 April 2007, at approximately 0335 hours, Officer A, who was in uniform and driving a marked Chicago Police squad car, was driving east on Washington when he observed what appeared to be an “unmarked” squad car parked on the driveway of the Marathon gas station at 3947 W. Washington. Officer A saw Witness 1 standing with his hands on the hood of the car he believed to be an unmarked squad car. Officer A also saw a second male/black, Subject 1, standing near Witness 1 and a third unknown male/black, Subject 2, sitting in the “unmarked” squad car.

Officer A stopped and exited his car. Witness 1 yelled that he was being robbed and that the offenders had a gun. Officer A announced his office and repeatedly ordered Subjects 1 and 2 to show their hands. Subject 1, who was holding Witness 1 by his shirt, began to pull Witness 1 towards the “unmarked” squad car. Subject 2 drove away in the car and drove east on Washington.

Subject 1 then moved away from Witness 1, who continued to yell that Subject 1 had a gun. Subject 1 turned towards Officer A and reached for his waist. Officer A fired his weapon once at Subject 1. Subject 1 ran across Washington and into the Mobil gas station’s parking lot with Officer A chasing him on foot. Subject 1 ran towards the rear of the parking lot and began climbing the locked gate. Officer A approached Subject 1 and again ordered him to stop and show his hands. Subject 1 reached for his waist and turned towards Officer A a second time. Officer A fired his weapon again. Subject 1 fell to the ground. Officer A placed Subject 1 into custody and summoned assistance. Subject 1 sustained a gunshot wound to his right arm.

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Witness 1 related to the roundtable panel that after he walked away from the Marathon gas station attendant's booth, Subject 1 got out of a car and said, "Come here." Witness 1 ignored Subject 1. Subject 1 reached into the "unmarked" squad car and produced a shotgun and demanded Witness 1's money. Witness 1 told Subject 1 that he only had \$3. Subject 1 replied, "Where's the rest? You think I'm playing?" Subject 1 pointed the shotgun at Witness 1 and grabbed Witness 1's baseball cap and threw it into the car. A marked squad car (Officer A) drove past and Subject 1 grabbed Witness 1 by his shirt. Officer A slowed down and Witness 1 yelled out to him. Officer A exited his squad car. Witness 1 yelled to Officer A that he was being robbed and that Subject 1 had a gun. Subject 2, the driver of the "unmarked" squad car, drove away. Officer A told Subject 1 to "come here." Subject 1 reached into his jacket and Officer A fired his weapon once at Subject 1. Subject 1 ran across the street and Officer A ran after him. Witness 1 continued to yell to Officer A that Subject 1 had a gun. Witness 1 stated that Subject 1 put his hands in his pockets as he ran and Witness 1 could hear Officer A repeatedly order Subject 1 to get down. Officer A then fired his weapon two more times and Subject 1 fell to the ground.

Multiple attempts to contact Witness 1 in furtherance of this investigation were unsuccessful.

INVESTIGATION: (Continued)

Witness 2, the manager at the Marathon gas station, related to the roundtable panel that he saw a male/black subject, now known as Witness 1, standing in front of the gas station when a car pulled up and another male/black subject, now known as Subject 1, exited that car. As Witness 1 approached the car, Subject 1 grabbed Witness 1 and tried to push him inside the car. A police car stopped nearby and Witness 1 yelled out that Subject 1 had a gun and that he was being robbed. The officer, now known as Officer A, exited the car and ordered Subject 1 to put his hands on the car. Subject 1 put his hands in his jacket and Officer A fired his weapon at him. Subject 1 then ran across the street with Officer A chasing after him. Witness 2 did not see what happened after that, but he did hear another gunshot.

Multiple attempts to contact Witness 2 in furtherance of this investigation were unsuccessful.

Officer A related to the Roundtable panel an account of the incident that was consistent with the Summary of Incident.

In a statement to IPRA on 30 July 2008, Officer A stated that he was on patrol when he saw what appeared to be an unmarked squad car in the parking lot of the Marathon gas station. Officer A saw Witness 1 “spread eagle” across the hood of that car and Subject 1 standing behind him, going through Witness 1’s pockets. Officer A

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stopped and exited his squad car because neither Subject 1 nor Subject 2, who was sitting in the driver's seat of the "unmarked" squad car, appeared to be police officers. As Officer A exited his car, Witness 1 yelled to him, "Watch yourself, Officer, they got a gun!" Officer A unholstered his weapon and advanced as Subject 1 pulled Witness 1 off of the hood of the "unmarked" squad car and held Witness 1 in front of him like a shield. Officer A continued to advance and yelled to Subject 1, "I want to see your hands!" and, "Drop the gun!" Subject 1 continued to back up while holding Witness 1 in front of him as a shield. Officer A then saw Subject 2 in the driver's seat of the "unmarked" squad car moving his arms and ordered him to put his hands on the steering wheel. Subject 2 complied as he sat in the driver's seat of the "unmarked" squad car. Officer A turned his attention back to Subject 1, who continued to back up. Officer A repeatedly ordered Subject 1 to stop and show his hands. As Officer A approached Subject 1, Subject 2 drove out of the parking lot at a high rate of speed. Witness 1 was able to break free from Subject 1. Officer A was able to position himself behind Subject 1, and he repeatedly ordered Subject 1 to show his hands. Subject 1 complied. Officer A then ordered Subject 1 to walk slowly towards Officer A's squad car. Subject 1 took approximately four steps toward the squad car before he abruptly stopped and moved his right hand towards his waistline. Officer A ordered Subject 1 to get on his knees and show his hands. Subject 1 refused to comply and looked over his shoulder at Officer A. Subject 1's right shoulder and arm began to "rock" back and forth, and, believing Subject 1 had a gun and was about turn toward Officer A with the gun, Officer A discharged his firearm

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at Subject 1, who then fled. Officer A called a “10-1” over the radio and chased Subject 1. Officer A chased Subject 1 to the rear fence of another gas station across the street where Subject 1 attempted to scale the fence but was unable to do so because the fence bent and “sprung” Subject 1 backwards towards Officer A. Officer A repeatedly ordered Subject 1 to stop and show his hands, but Subject 1 took several more steps towards Officer A and then came to an abrupt stop. Subject 1 reached into his jacket with his right hand and extended it towards Officer A, who discharged his firearm once, striking Subject 1. Officer A was then able to handcuff Subject 1. Officer A then radioed for assistance.

Subject 1 refused to cooperate with this investigation and refused to sign a Medical Consent Form.

The Arrest, Case, and Tactical Response Reports contained an account of the incident that was consistent with the accounts provided to the Roundtable panel and the Summary of Incident.

The related Department Reports indicate that Subject 1 agreed to be interviewed by a Chicago Police Department detective at Mt. Sinai Hospital. During the interview, Subject 1 stated that he was with another individual and that they had been drinking at a club on the west side. They went to the gas station located at Pulaski and Washington to

INVESTIGATION: (Continued)

get some juice and “some dude” began arguing with him about “a bitch.” While they were arguing, a police car pulled up and an officer got out and yelled, “Police! Show me your hands!” Subject 1 stated that he thought he was in trouble so he began to run and the officer shot him. Subject 1 denied having a gun or attempting to rob anyone. Subject 1 stated that he “may have turned towards the officer with his hands in waist or pockets” just before the officer shot him. Subject 1 stated that although the officer repeatedly yelled “Police! Show me your hands!” he refused to obey the officer. Subject 1 also refused to provide any further information regarding the individual he was with or the club they were in. Subject 1 refused to answer any further questions or provide more information.¹

The Chicago Fire Department Ambulance #10 Run Report indicates that the paramedics found Subject 1 on the ground after being shot in the right hip and right wrist with no apparent exit wounds. The paramedics reported a heavy odor of alcohol on Subject 1.

The surveillance video obtained from the Mobil gas station located at 3940 W. Washington shows Subject 1 running north through the parking lot. Subject 1 ran to a fence and attempted to climb the fence. Subject 1 fell backwards off of the fence and

¹ Although Subject 1 was reported to be in possession of a firearm at the time of the incident, no firearm was recovered.

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began to run south through the parking lot. Subject 1 then fell to the ground. Officer A approached Subject 1 and placed him in handcuffs.

The Evidence Technician photographs depict the location of incident and photographs of Subject 1 lying on a hospital gurney.

A report from the Illinois State Police (“ISP”) Division of Forensic Services dated 09 May 2007 indicates that Officer A’s 9mm firearm was examined and test fired and found to be in firing condition. The recovered casings were found to be fired from Officer A’s firearm.

On 05 January 2009, Subject 1 pled guilty to Armed Robbery and was sentenced to five years of incarceration in the Illinois Department of Corrections.

CONCLUSION AND FINDING:

This investigation found that Officer A's use of deadly force was in compliance with Chicago Police Department policy and State statutes. 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 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."

Officer A's actions were in accordance with both conditions of the Department's deadly force policy. Witness 1 informed Officer A that Subject 1 had a gun and was attempting to rob him, a forcible felony. According to Witness 1, Subject 1 threatened him by displaying a shotgun and demanding Witness 1's money. Subject 1's actions against Witness 1 amounted to "a forcible felony which involved the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm."

CONCLUSION AND FINDING: (Continued)

It was reasonable that Officer A feared for his life after Witness 1 told him that Subject 1 had a gun and was robbing him. Officer A also added that Subject 1 fled and refused to comply with directions to show his hands. Subject 1 admitted that he ran from Officer A and that he “may have” turned towards Officer A with his hands in his waist or pocket just before Officer A shot him. Officer A and Witness 2 provided accounts of the incident that were corroborated by the video recording from the gas station.