

INDEPENDENT POLICE REVIEW AUTHORITY

Log # 1063863/ U # 13-28

INVESTIGATION

NUMBER: Log #1063863 / U#13-28

OFFICER

INVOLVED #1: “Officer A” (Chicago Police Officer); Male/White; 33 years old;
On- Duty; Full Uniform; Year of Appointment – 2005

**OFFICER’S
INJURIES:**

None reported

WITNESS

OFFICER: “Officer B” (Chicago Police Officer); Male/White; 32 years old;
On- Duty; Full Uniform; Year of Appointment – 2006

**OFFICER’S
INJURIES:**

None reported

SUBJECT:

“Subject 1”; Male/Hispanic; 39 years old

**SUBJECT’S
INJURIES:**

Gunshot wounds to center chest, lower left abdomen,
and left flank. Pronounced on scene at 2349 hours by Cook
County Medical Examiner’s Office, Investigator A

**DATE & TIME OF
INCIDENT:**

28 July 2013 at approximately 2159 hours

LOCATION:

XXXX S. Mozart Street

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SUMMARY OF INCIDENT:

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

On 28 July 2013, at approximately 2142 hours, Witness 1 called 911 to report that her ex-boyfriend, Subject 1, followed her, her three children, and her friend, Witness 3 in his vehicle from the K-Mart located at 5050 S. Kedzie Avenue, where he confronted them with a knife. Witness 1 further reported that she had an Order of Protection against Subject 1.

Upon arrival at the location of incident, responding Officers A and B, working Beat 923R and in full uniform, observed Witness 1 and her three children exit a red Jeep Cherokee. As Witness 1 has a limited English vocabulary, her brother Witness 2 assisted with interpreting for Witness 1. Officers A and B spoke with Witness 1 and Witness 2 at the front of her residence, located at XXXX S. Mozart Street.

After the Officers requested a copy of the Order of Protection, Witness 1 proceeded towards the rear of the residence, through a gangway, and into the backyard in order to obtain the documents. Subsequently, Witness 1 was heard screaming. The officers and Witness 2 ran through the gangway and saw Subject 1 astride Witness 1 stabbing her. Subject 1 then rose from the ground and raised the knife towards the officers, at which time Officer A fired his weapon four times, fatally wounding Subject 1. Subject 1 was pronounced on scene by M.E. Investigator A, at 2349 hours.

Witness 1 sustained a through and through stab wound to her left bicep and was transported to Mt. Sinai Hospital for treatment.

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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 and the witnesses.

The **OEMC** and **PCAD Reports** were collected and made part of this investigation. An analysis of said documents shows no information that is inconsistent with the facts as related by the witnesses and the involved officers.

The **In-car Camera footage** from vehicles #6359 and #8541 did not capture the incident.

The **Chicago Fire Department Ambulance Report** documented that EMS was dispatched to XXXX S. Mozart at approximately 2200 hours. The report further indicated that Witness 1 was stabbed in her left bicep with a butcher knife.

The **Chicago Fire Department Non-Transport Report** documented the non-transport of Subject 1. It was noted that he was found unresponsive, face down, with approximately 3 gunshot wounds to the abdomen.

The **Medical Records** obtained from Mt. Sinai Hospital documented that Witness 1 sustained a stab wound to the upper left extremity.

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

Evidence Technician Photographs documented Officer A, the crime scene, the body of Subject 1, Witness 1, and Subject 1's vehicle.

Illinois State Police Forensic Science Laboratory Reports document the examination of the recovered ballistic evidence in comparison to the firearm belonging to Officer A. It was determined that the shell casings recovered at the scene of this event were fired from Officer A's Smith and Wesson 9mm Semi-Automatic pistol; Serial # BAY7540. Examination of the knife recovered on scene did not reveal any latent print impressions suitable for comparison.

The Medical Examiner's Report documents the postmortem examination of Subject 1. The report indicates that Subject 1 sustained two gunshot wounds to his chest and a third gunshot wound to his abdomen. The cause of death was multiple gunshot wounds, with the manner being ruled a Homicide.

In a statement to IPRA on 29 July 2013, Witness 1 stated that on the date of incident she called 911 to report that her ex-boyfriend, Subject 1, was following her from K-Mart, where he was observed to be in possession of a knife. Once they arrived near 52nd and Mozart Street, she observed Subject 1 continue driving on 52nd street while she

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turned southbound on Mozart Street. Witness 1 stated that she parked near her residence and she called 911 again to check the status of the responding officers. Witness 1 explained that her children did not want to exit the vehicle and also asked her not to exit the vehicle because they were afraid that Subject 1 was in the area. When the officers arrived at her residence, the children exited the vehicle and entered the home. Witness 1 stated that she had her brother, Witness 2, assist her in translating the nature of the incident involving Subject 1 to the officers.

Witness 1 related that she informed the officers that she had an order of protection against Subject 1 and they asked to see the document. Subsequently, she walked towards the rear of the residence in order to obtain the order when she encountered Subject 1 in the backyard. Upon seeing Subject 1, Witness 1 stated that she turned away from him, ran towards the gangway; and began to scream. Witness 1 explained that Subject 1 grabbed her by the hand and knocked her to the ground. Witness 1 further explained that Subject 1 covered her mouth with one hand and stabbed her with the other hand. Witness 1 stated that she believed Subject 1 was attempting to stab her in the chest but she shielded herself. Witness 1 explained that Subject 1 knelt over her while he was stabbing her. Witness 1 stated that she continued to yell while Subject 1 was covering her mouth.

Witness 1 explained that she saw a light coming from the officers' flashlight in the gangway and she heard the officers telling Subject 1 to "leave her alone."¹ Witness 1 further stated that Subject 1 did not say anything and continued to stab her. Subsequently, she heard gun shots and saw Subject 1 fall to the ground. Witness 1 stated that she did not see the officer fire his firearm but she heard gun shots before Subject 1 fell to the ground.

Witness 1 stated that prior to this date, Subject 1 had threatened to kill her and he told her that he did not care if the police were present.

In a statement to IPRA on 29 July 2013, Witness 2 provided information consistent with the Department Reports, Witness 1's statement, the involved officers' statements, and the Summary contained within this report. Witness 2 related that on the date and time of incident, he assisted his sister, Witness 1, with interpreting the incident to the responding officers.

Witness 2 reported that after Witness 1 informed the officers that she had an Order of Protection against Subject 1, the officers asked her to see the Court Order. Witness 1 then proceeded towards the rear of the residence in order to enter her residence to retrieve the document. Witness 2 stated that when Witness 1 went into the gangway, he and the officers heard Witness 1 screaming and crying. Witness 2 explained that he and the two officers ran towards the gangway and saw Witness 1 trying to move towards them while Subject 1 stabbed her. Witness 2 stated that after the officers shone their flashlight towards Subject 1, he got up and raised the knife in his right hand, pointing it towards the officers. Witness 2 stated that one of the officers, now identified as Officer A, fired his weapon multiple times, striking Subject 1.

¹ Statement of Witness 1.

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After speaking with **Witness 3** at Area Central, it was determined that he did not witness the incident and therefore a statement was not obtained from him. Witness 3 stated that he was sitting in his vehicle when he heard 3-4 gunshots, which he initially believed to be fireworks. Witness 3 further added that he did not exit his vehicle until he saw Witness 1 in front of her residence.

In a statement to IPRA on 29 July 2013, Officer B provided his account of this event in a manner consistent with the Departmental Reports, witness accounts and the Summary contained within this report. Officer B added that they asked Witness 1 for the Order of Protection in order to document it in an incident report. Officer B explained that after Witness 1 entered the gangway, they heard her screaming. Subsequently, he, Officer A and Witness 2, ran into the gangway and he observed Subject 1 knelt over Witness 1, stabbing her. Officer B reported that Subject 1 stood up from the ground, raised the knife and approached Officer A rather quickly. Officer B stated that Officer A subsequently fired his weapon multiple times. Officer B related that Officer A had no other available option when it came to stopping the threat. Based on the proximity between Subject 1, Officer A, and Witness 2, there were no other available options.

In a statement to IPRA on 31 July 2013, Officer A provided his account of this event in a manner consistent with the Departmental Reports, witness accounts and the Summary contained within this report. In said statement, Officer A articulated that after observing Subject 1 stabbing Witness 1, he yelled out words to the effect of, "hey."² Subsequently, Subject 1 rose from a crouching position with the knife raised in his hand, and moved towards him at a very quick pace. Officer A related that he had no option but to fire his weapon. Officer A explained that he was not able to seek cover from the threat and there was no other option available in order to stop the threat to himself, his partner, and Witness 2 and Witness 1. Officer A recalled firing his weapon three to four times and stated that he stopped firing because Subject 1 fell to the ground and was no longer a threat. Officer A stated that after Subject 1 fell to the ground, he kicked the knife away from Subject 1 in order to prevent further threat.

² Statement of Officer A.

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CONCLUSION AND FINDINGS:

This investigation found that Officer A's use of deadly force was in compliance with Chicago Police Department Policy. According to the Chicago Police Department's General Order General Order 03-02-03 II:

- 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, along with Officer B and Witness 2, observed Subject 1 stabbing the victim, Witness 1. Upon shining their flashlight in Subject 1's direction, Subject 1 raised the knife he used to stab Witness 1 and aggressively approached the officers. Subject 1's actions placed Officer A in imminent fear of great bodily harm or death to himself, his partner, Witness 2, and Witness 1.

Based on the totality of the circumstances, Officer A's actions were reasonable to prevent death or great bodily harm.