

INDEPENDENT POLICE REVIEW AUTHORITY
Log # 1020378/U# 08-36

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INVESTIGATION

NUMBER: LOG # 1020378/ U# 08-36

OFFICER

INVOLVED #1: “Officer A” (Chicago Police Officer); Male/White; 28 years old;
On-Duty; In uniform; Year of Appointment – 2005

OFFICER’S

INJURIES: None Reported

OFFICER

INVOLVED #2: “Officer B” (Chicago Police Officer); Male/White; 28 years old;
On-Duty; In uniform; Year of Appointment – 2007

OFFICER’S

INJURIES: None Reported

SUBJECT: “Subject 1”; Male/Black; 47 years old

SUBJECT’S

INJURIES: Multiple fatal gunshot wounds to the left back and left
Upper arm

DATE/TIME: 27 September 2008, 1935 hours

LOCATION: 7700 block of South Kedzie Ave.,
Beat 835

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SUMMARY OF INCIDENT:

On 27 September 2008, at approximately 1922 hours, Officer A, and Officer B, responded to a radio request for a well-being check on the 7700 block of South Kedzie Ave. The request was made by a chaplain from Christ Hospital, via the Oak Lawn Police Department. It was later determined that earlier that day the subject of the request, Subject 1, had been in contact with the chaplain and had told the chaplain that he was contemplating taking his own life.

Once the officers arrived to the 7700 block of South Kedzie Ave. for the well-being check they rang the bell. Subject 1's roommate (later identified as Witness 1), approached both officers from a gangway that runs along the south side of the apartment building. Witness 1 told the officers that Subject 1 was sitting at a kitchen booth, inside the apartment, and that he had a knife. Shortly afterwards, Subject 1 appeared in the gangway and he stood approximately three to five feet away from Witness 1, with his hands behind his back. The officers noticed that Subject 1 was hiding a large kitchen knife behind his back. Witness 1 told Subject 1 to drop the knife and then Witness 1 began to run from Subject 1. Once Witness 1 reached the front of the building next door on 7700 block of South Kedzie, he tripped and fell on his knees. Subject 1 continued to chase after Witness 1. Both officers yelled out to Subject 1 to drop the knife, but he continued to run toward Witness 1 with the knife raised and he refused to comply with their orders. Officer A believed that Subject 1 was about to stab Witness 1. Fearing for Witness 1's safety Officer A fired two shots at Subject 1 striking him in the left back and left upper arm. Once Subject 1 fell to the ground the officers kicked the knife away from him and then they radioed for an ambulance (Att. # 11).

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Officer A related to the Roundtable panel an account that was consistent with the above summary. Officer A told the panel that he and Officer B were in the vestibule when Witness 1 appeared in the doorway and informed them that his roommate, Subject 1, was inside their apartment, seated at a booth with a knife. Subject 1 then approached the officers and Witness 1 from the gangway with his hands behind his back. Witness 1 told Subject 1 to drop the knife that he was holding as he (Witness 1) began to back away from Subject 1. Witness 1 then fell to the ground. Subject 1 pursued Witness 1 and stood over him with the knife raised. Officer A yelled for Subject 1 to drop the knife, but he ignored Officer A's orders. Officer A then fired two shots at Subject 1, striking him in the left back and left upper arm.

Officer B related to the panel an account of the incident that was consistent with the above summary. Officer B related to the panel that he and Officer A had received a well being call regarding a man who was threatening suicide. Officer B was told that the call was made by Christ Hospital regarding a male named "Subject 1." Once the officers arrived at Subject 1's residence, they rang the bell several times. Then a male (later identified as Witness 1) exited the gangway and identified himself as Subject 1's

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roommate. This male told the officers that Subject 1 was inside the apartment with a knife. Then Subject 1 appeared in the gangway. Officer B saw that Subject 1 was holding a knife behind his back. Witness 1 told Subject 1 to drop his knife, but Subject 1 moved towards Witness 1. Witness 1 ran from Subject 1 and fell. Subject 1 approached Witness 1 with the knife raised in his hand. Both officers ordered Subject 1 to drop the knife. When Subject 1 refused to comply, placing the officers in fear of Witness 1's safety, Officer A fired two shots at Subject 1. Subject 1 was struck in the left back and left upper arm. After Subject 1 fell to the ground, the officers kicked his knife away from his body.

Witness 1 related to the panel an account of the incident that was consistent with the above summary of incident. Witness 1 informed the panel that he and Subject 1 were friends and that Subject 1 had been living with him for several months. On the day of the incident, Subject 1 came home after having been away for several days. Witness 1 asked Subject 1 where he had been and why he did not call to check in. Subject 1 did not respond. Witness 1 believed that something was wrong with the way that Subject 1 was behaving. Witness 1 was already aware that Subject 1 suffered from bi-polar disorder and depression and that he had been medically treated for both in the past. Witness 1 stated that Subject 1's behavior would worsen in the past when he would consume alcohol.

At approximately 1515 hours, on the same day, Witness 1 left his apartment and returned at approximately 1900 hours. When he entered his residence, all the lights were switched off. Witness 1 turned on the lights and he saw Subject 1 sitting at the kitchen table. Witness 1 asked Subject 1 if anything was wrong and Subject 1 responded by telling Witness 1 to turn the lights off. Witness 1 asked Subject 1 what he did while he was away and he told Witness 1 that he listened to music. Witness 1 observed an open bottle of rum and a large kitchen knife on the table near where Subject 1 was seated. Thereafter, Witness 1 saw two officers standing in the vestibule of the apartment building so he left the apartment through the side door, entered the gangway, and approached the officers.

Witness 1 opened the vestibule door and told the officers that Subject 1 was seated in the kitchen with a knife. Suddenly Subject 1 appeared in the gangway and approached Witness 1 and stood approximately three to five feet away with his hands behind his back. Witness 1 could not see what Subject 1 was holding in his hand, but he believed that Subject 1 was holding the kitchen knife. Witness 1 told Subject 1 to drop the knife and then he ran south down Kedzie Street, away from Subject 1. Witness 1 could not see Subject 1 running after him. Witness 1 tripped and fell on his knees when he heard both officers shout for Subject 1 to drop the knife. Witness 1 heard a popping noise and when he turned to see what was going on he saw Subject 1 on the ground bleeding. Witness 1 believed that Subject 1 had been shot. Witness 1 was not injured during the incident (Att. # 11).

In a statement to the IPRA on 18 March 2009, the involved officer, Officer A, provided the following account of the incident. The statement is consistent with the summary above and his account given before the Roundtable panel. Officer A was driving a marked squad car on the day of the incident. He was partnered with Officer B.

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Both Officer A and Officer B were in uniform. While in the vestibule of the building, located on the 7700 block of South Kedzie, the officers were greeted by Witness 1 just before Subject 1 appeared in the gangway with a knife in his right hand. Officer A described Subject 1's initial demeanor as being extremely aggressive. Subject 1 soon started chasing Witness 1 with the knife raised in an aggressive stabbing motion. Officers Officer A and Officer B chased Subject 1 and ordered him to drop his knife, but he ignored their commands. Witness 1 eventually fell to the ground screaming at Subject 1 to drop the knife. Subject 1 stood above Witness 1 and came down with his knife in Witness 1's direction. Officer A was standing roughly five to ten feet from Subject 1 and fired two shots at Subject 1 in order to prevent great bodily harm to Witness 1. Officer A stated that there were no other viable options available to prevent Subject 1 from stabbing Witness 1. Officer A stated that he was not qualified nor authorized to carry a taser at the time of the incident. Officer A stated that using O/C spray was not feasible since Subject 1 was not facing him (Officer A) at the time Subject 1 approached him. Officer A stated that immediately after shooting Subject 1, he requested an ambulance and for assistance via his radio. Officer A stated that Officer B kicked Subject 1's knife out of his hand. Officer A stated that prior to the shooting he had no information concerning Subject 1's mental state (Att. # 26).

In a statement to the IPRA on 1 April 2009, Officer B provided the following account of the incident which is consistent with the summary above and the account given before the roundtable panel. Officer B stated that on 27 September 2008, at approximately 1930 hours, he and Officer A received a well-being call and responded to a residence on the 7700 block of South Kedzie in a marked squad car. Officer B stated that the dispatcher informed him and Officer A that man was threatening suicide. Officer

Officer B stated that he was a passenger in the vehicle and once the officers approached the apartment building they entered the vestibule. After ringing the bell a male (later identified as Witness 1) exited the vestibule and approached them. The officers asked Witness 1 if he knew who Subject 1 was and he told them that Subject 1 was upstairs with a knife. Moments later a second male (identified as Subject 1) appeared in the gangway just south of where the officers were standing with Witness 1. Subject 1 was holding a big kitchen knife in his right hand and his demeanor was aggressive and crazed. Subject 1 began waving the knife around, at which point both officers drew their guns and commanded Subject 1 to put his knife down. Subject 1 started to chase Witness 1 in a threatening manner. Witness 1 fled, but fell approximately fifty feet away from where the chase began. Subject 1 caught up to Witness 1 and while standing above him, began to bring down the knife. All the while both officers were shouting for Subject 1 to drop his knife. Officer A, who was standing approximately fifteen feet away from Subject 1, fired two shots, striking Subject 1 before he could stab Witness 1. Officer B stated that there were no other effective options available to eliminate the potentially fatal threat to Witness 1. Officer B stated that he and Officer A did not carry tasers at the time of the incident because they had not been trained to use them. Officer B stated that Oleoresin Capsicum (O/C) spray would not have been effective because Subject 1 was not facing

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them. Officer B reported that immediately after the shooting, they radioed for assistance and an ambulance (Att. # 27).

In a statement to the IPRA on 27 September 2008, Witness 1 provided the following account of the incident which was consistent with the summary of incident above and the account given before the Roundtable panel. Witness 1 stated that on 27 September 2008, at approximately noon, Subject 1 returned home after being gone for several days without explanation. Witness 1 noticed that Subject 1 appeared to be upset, but he would not discuss what was bothering him. Witness 1 suspected that Subject 1's behavior was related to the fact that he suffered from bipolar disorder and depression. Witness 1 stated that he believed that Subject 1 had been taking his medication, but he did not know what kind of medicine Subject 1 was taking. Witness 1 stated that he left their apartment and returned at approximately 1900 hours. Once Witness 1 entered his apartment he turned on the kitchen light and saw that Subject 1 was in the kitchen seated at a booth. Subject 1 asked Witness 1 to turn off the lights and Witness 1 observed that Subject 1 had been drinking. Prior to this Witness 1 had asked Subject 1 not to drink in his apartment because he had observed that when Subject 1 drank he exhibited more symptoms of bipolar disorder and depression. At this point the doorbell rang and Witness 1 looked outside his front window and saw the police.

Witness 1 left his apartment through the side door, entered the gangway which runs along the side of the building, and then opened the vestibule door to speak with the police. Witness 1 told the officers that Subject 1 was upstairs with a knife. Within seconds Subject 1 appeared in the gangway standing three to five feet away from Witness 1 and the officers. Witness 1 saw that Subject 1's hands were behind his back, but he could not see if he was holding the knife that had previously been on the kitchen table. Witness 1, assuming that Subject 1 was holding the knife, told Subject 1 to put the knife down and then ran south, away from Subject 1. Witness 1 heard the officers order Subject 1 to drop the knife as he continued to run. Witness 1 fell to the ground at which point he heard a popping noise. When he turned around to see what was going on, he saw Subject 1 on his knees, bleeding profusely. Witness 1 was not injured in any manner (Att. # 8).

The report from Assistant Deputy Superintendent Patrick McNulty included an account of the incident consistent with the summary of the incident and the interviews outlined above (Att. # 4).

The Case Report includes an account of the incident that is consistent with the Summary of Incident and the interviews summarized above. The report states that Officers Officer A and Officer B were assigned to beat 833, working in uniform and driving a marked squad car when they responded to a well-being check on the 7700 block of South Kedzie. They entered the foyer of the three unit apartment building they were trying to locate "Subject 1." Witness 1 approached them and told them that Subject 1 was upstairs. Subject 1 entered the gangway, on the 7700 block of South Kedzie, with a knife in his hand and raised it above his head and approached Witness 1. Witness 1 fled and fell approximately fifteen feet away near the address next door on 7700 block of South

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Kedzie. Subject 1 stood over Witness 1 and raised the knife as if to stab Witness 1. The officers gave verbal commands for Subject 1 to drop the knife, but he ignored the commands. Fearing for Witness 1's life, Officer A fired his weapon twice striking Subject 1, causing him to fall. Officer B ran to Subject 1 and kicked the knife away from him and the officers radioed for assistance (Att. # 5).

A canvass of the area was conducted on 13 October 2008. A possible witness, Possible Witness 1; was identified by a person spoken to during the canvass. However, Possible Witness 1 could not be located on the date of the canvass for an interview (Att. # 15).

Numerous attempts were made to contact Possible Witness 1 via telephone, letters, and personal visits. The R/I made attempts to contact "C" Properties (the owner of the apartment building where Possible Witness 1 possibly resided). Possible Witness 1 could not be located (Att. # 16, 19 and 29).

The Chicago Police Department's Case Supplementary Report indicates that the detectives conducted a canvass where they located a Possible Witness 2, who told them that she heard two shots being fired, but that she was not an actual witness to the shooting incident. No additional eyewitnesses were located (Att. # 24).

Officer A's Tactical Response Report (TRR) indicates that Subject 1 did not follow verbal instructions, attacked a victim with a weapon and that he used force that was likely to cause death or great bodily harm. The TRR also indicates that Officer A attempted to use verbal commands to control Subject 1 before firing two times at him (Att. # 28).

The Office of Emergency Management and Communications (OEMC) Event Query provides information that is consistent with the accounts of the incident. The event query further indicates that Officer A radioed in that shots had been fired at 1935 hours (Att. # 17).

An Illinois State Police Division of Forensic Services (ISP) report dated 12 May 2009 indicates that the knife that was at the scene was recovered and swabbed. The report states that entire length of the knife measures approximately thirteen inches and the blade alone measures approximately eight inches and up to three inches in width. No DNA tests were performed on the knife. An ISP report dated 23 July 2009 states that Subject 1's DNA could not be excluded from having contributed to the human male DNA profile identified from the knife's swab. An ISP report dated 7 October 2008 states that Officer A's Sig Sauer Lugar semi-automatic pistol was test fired and examined and found to be in firing condition (Att. #s 38, 44, 45).

The Evidence Technician Photographs depict the exterior of the residence on the 7700 block of South Kedzie, the exterior of the address next door on South Kedzie; the

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sidewalk in front of the address next door on South Kedzie showing Subject 1's body lying on the ground covered by a white sheet. Photos of the interior of Witness 1's apartment show a bottle of alcohol, which Subject 1 is said to have been drinking from; and a court order of protection from his wife, [Unnamed Wife], and his child, [Unnamed Child]. The photos show a gangway through which both Witness 1 and Subject 1 approached the officers. The photos show Subject 1's body and he is positioned on his knees, face first on the ground. The photos show both of the gunshot wounds found on Subject 1's body (Att. # 37).

The Medical Examiner's Report indicates that Subject 1 was examined on 28 September 2008 at 0745 hours by Dr. "H". According to the report Subject 1 had a gunshot wound on the left side of his back with an exit wound on the right side of his lower chest. In addition, the report indicates that Subject 1 sustained a gunshot wound on his left upper arm with an exit wound to the right side of his chest. The manner of death is homicide. The toxicological analysis indicates that Subject 1's blood tested positive for the presence of ethanol (94mg/dl). (Att. # 20, #39).

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CONCLUSION AND FINDING:

The 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 No. 02-08-3, 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 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.

The officer's actions were in accordance with the requirements spelled out above by A (1). By all accounts Subject 1 was on the verge of stabbing Witness 1. As such, Officer A was acting under the reasonable belief that Witness 1's life was in imminent danger and thus was justified in using deadly force to "prevent death or great bodily harm to the sworn member or to another person."