

Independent Police Review Authority

SUBJECT: Log# 1021026/U# 08-40

OFFICER INVOLVED: “Officer A” (Chicago Police Detective); Male/White; 38 years old; Off-Duty; in civilian dress; Year of Appointment – 1998

OFFICER INJURIES: None Reported

INITIAL INCIDENT: Attempt Armed Robbery

SUBJECT: “Subject 1”; Male/Black; 44 years old

SUBJECT INJURIES: Gunshot wound to left side of back and gunshot wound to left hand, (FATAL).

DATE/TIME 21 October 2008, 1116 hours

LOCATION: 6200 block of South Honore
Chicago, Illinois 60636

SUMMARY OF INCIDENT:

At approximately 1100 hours, 21 October 2008, a male black, now known as Subject 1, displayed a weapon and attempted to rob Officer A who was off-duty and at an address on the 6200 block of South Honore. The address at the South Honore location is a single-family home that Officer A owns as a rental property. Officer A was at the property to make repairs in preparation for an inspection scheduled in November. Officer A arrived and parked his vehicle in front of the property on the 6200 block of South Honore and sat on the curb behind his vehicle to mix primer paint. A male, black now known as Subject 1 who was walking southbound on the east sidewalk of Honore approached Officer A and engaged him in a short conversation about possible employment. Subject 1 departed but then turned back and once again approached Officer A. Subject 1 reached under his jacket, removed a silver-colored pistol and demanded money from Officer A. Officer A removed his personal revolver and fired five shots at Subject 1. Subject 1 fled on foot southbound on Honore while Officer A called "911" on his cell phone to report the incident. Subject 1 crossed 63rd Street and ran southeast through a vacant lot to an alley leaving a trail of blood on the sidewalk, in the vacant lot, leading to the rear of a residence on the 6300 block of South Honore and ultimately leading to the front of the building, on the 6300 block of South Honore. There was blood evidence on the front porch indicating that Subject 1 may have tried to get inside the building before falling face-down at the foot of the stairs. A replica 9mm handgun was found on the ground in the north gangway of the property on the 6300 block of South Honore under a wooden gate. Blood evidence was found on and next to the gate and on the recovered handgun.

INVESTIGATION:

On 21 October 2008, a **Roundtable Panel** was conducted regarding this officer involved shooting. One civilian witness and the involved officer/witness Officer A appeared. (Att.5)

Witness 1 related to the Roundtable that she resides at property on the 6300 block of South Honore with her aunt and Subject 1. Witness 1 related that Subject 1 was her boyfriend of six months. Witness 1 last saw Subject 1 in bed at 0900 hours on the morning of 21 October 2008. Witness 1 stated that she did not know where Subject 1 was going when he left the apartment and she did not realize that he had left. Witness 1 related that she knew that Subject 1 owned and carried a cigarette lighter that looks like a 9mm handgun. Witness 1 also knew that Subject 1 was incarcerated for armed robbery before they started dating. Witness 1 did not witness the shooting and did not see Subject 1 again until she saw him on the ground outside of their apartment building.

Involved Officer A related to the Roundtable an account of the incident that was consistent with the Summary of Incident. Officer A added that he was at his rental property on the 6200 block of South Honore to paint the house. Officer A was sitting on

the curb mixing paint when a male, black, now known as Subject 1, who was walking south on Honore approached Officer A and asked him if there was any work that he (Subject 1) could do. Officer A told Subject 1 that he had no work. Subject 1 walked away for a couple of seconds before returning. Subject 1 returned, lifted his jacket and removed what appeared to be a chrome-colored semi-automatic weapon. Officer A related that he heard a clicking noise and thought that Subject 1 cocked the gun. Subject 1 then demanded money, saying in effect, "Give me your money" or "Give me your wallet." Officer A, who had stood up, stepped back and in fear for his life, removed his five-shot revolver, stepped back again and fired five rounds at Subject 1 who was now face to face with him and demanding money. Subject 1 then ran southbound on Honore. Officer A did not pursue Subject 1. Officer A called "911" reporting an armed robbery attempt and shots fired. Officer A related that a short time later, he went to the property on the 6300 block of South Honore with responding units and positively identified Subject 1 as the individual who tried to rob him at gunpoint.

The related **Department Reports**, including the report of Assistant Deputy Superintendent, Office of the First Deputy Superintendent dated 21 October 2008; General Offense Case Report HP639540, Criminal History Report IR#663356 Subject 1; Case Supplementary Report HP640300; Original Case Incident Report; Closed Supplementary Case Report HP639540; Tactical Response Report; and Officer's Battery Report provide accounts of the incident that are consistent with that which is contained the Summary of Incident.

In addition, Witness 1 related to police in the Supplemental Case Report, that she knew Subject 1 to possess and carry a "toy" gun which resembled a silver semi-auto handgun. In addition, Witness 2 related that he is a handyman who has worked for Officer A and was on the street at 63rd and Wood on his way to meet Officer A. Witness 2 stated that he heard four or five loud gunshots and then observed a male, black run southbound on Honore across 63rd Street. The male, now known as Subject 1, appeared to be carrying something. Witness 2 stated that he knew Subject 1 as "[Nickname]" and Witness 1 as "[Unnamed]." Witness 2 related that he had heard that "[Nickname]" and "[Unnamed]" were doing stickups and used a B.B. gun during same. Witness 2 stated that "[Unnamed]" showed him (Witness 2) the B.B. gun on a previous occasion. (Atts.4,11,12, 14, 25, 40, 41, 42)

The **Office of Emergency Management and Communications (OEMC)** Event Query provides information consistent with the Summary of Incident. (Atts.13, 23)

The **Crime Scene Report and Evidence Technician Photographs and Video Tape** depicts the location of the incident and the locations of recovered evidence. Subject 1's weapon, a Replica Type handgun marked U.S. 9 was inventoried under No. 11475139. Officer A's weapon, a S & W Model 640-1, .357 magnum revolver, SN CEL2146 was inventoried under No. 11475033. (Atts.17, 18, 19, 20, 28)

The **Report of Postmortem Examination, Office of the Medical Examiner, County of Cook, Illinois**, indicates that upon examination 22 October 2008, the cause of Subject 1's death was due to multiple gunshot wounds. The manner of death was homicide. The Cook County Medical Examiner stated that he observed an entrance gunshot wound to the lower left back, left torso area and a corresponding exit gunshot wound to the left chest area, just below the left nipple. The Medical Examiner also observed a single entrance gunshot wound to the left index finger. (Atts.7, 33)

A report from the **Illinois State Police, Division of Forensic Services**, dated 08 November 2008, indicates that Officer A's weapon, a S & W Model 640-1, .357 magnum revolver, SN CEL2146 inventoried under No. 11475033 was examined, found to be in firing condition and test fired. (Atts.36, 37)

A report from the **Illinois State Police, Division of Forensic Services**, dated 31 March 2009 indicates that Exhibit 1, Blood standard, Subject 1 is preserved. Exhibit 6, Replica handgun, Inventory Number 11475139 has blood indicated. Samples from Exhibits 1 and 6 have been retained for DNA analysis and will be the subject of a separate report. Exhibit 6 has also been transferred to the Latent Prints section for further analysis and will be the subject of a separate report. (Att.38)

A report from the **Illinois State Police, Division of Forensic Services**, dated 30 June 2009, indicates that Exhibit 6, replica handgun, revealed no latent impressions suitable for comparison. (Att.43)

A report from the **Illinois State Police, Division of Forensic Services**, dated 18 June 2009 indicates that Exhibit 6A, swabs from the replica handgun, match the DNA profile of Subject 1, Exhibit 1A. (Att.42)

The **O.E.M.C. PCAD Event Queries and Voice Transmission** indicates that Officer A telephoned "911" on 21 October 2008, at 1116 hours, and reported that someone had attempted to rob him and that he fired his weapon at the offender. Numerous units responded to the scene. (Att. 44)

The IPRA responded to the location of the incident on 22 October 2008 and conducted a canvass in the vicinity of the address on the 6200 block of South Honore with negative results. (Att.8)

The IPRA attempted to interview **Witness 1** on 21 October 2008 at Area 1 Headquarters. Witness 1 failed to cooperate with the investigation. (Att.6)

Witness 2 provided a statement consistent with the Summary of Incident and the Case Supplementary Report. In addition, Witness 2 stated that about a month prior to this police involved shooting, he spoke to "[Unnamed]" and she showed him an eight inch gun that was not real but could be mistaken for a real gun. (Att.9)

Attempts to contact **Witness 3, Witness 4, Witness 5, Witness 6, and Witness 2** have met with negative results. Letters and personal visits have failed to yield a response. (Atts. 46, 47, 48, 49, 54, 55, 56)

Witness Involved Officer A provided an account of the incident consistent with the Summary of Incident and his Roundtable statement. Officer A stated that the black male now known as Subject 1 placed his hand on the gun and he (Officer A) heard the gun cock. Officer A stated that at this point Subject 1 said something like give it up or give me your money. Subject 1 then pulled the gun out and Officer A related that he began to walk slowly away from him. Officer A stated that while Subject 1 had the gun out and in front of him, he (Subject 1) kept saying come on, give it up. Officer A stated that Subject 1 then became more aggressive and at that point he thought that Subject 1 was going to kill him (Officer A). Officer A stated that he pulled his weapon and immediately pointed it at Subject 1 and fired five times. Subject 1 turned as Officer A was firing and fled southbound of the sidewalk towards 63rd Street. Officer A added that Subject 1 was about three or four feet in front of him, standing upright with the weapon in both hands holding it in front of him (Subject 1). Officer A stated that he did not say anything to Subject 1 before he fired. Officer A stated that as Subject 1 was turning towards the sidewalk, he continued to fire his weapon as Subject 1 still had his weapon in his hands. (Att.35)

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 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 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 conditions one and two of the Chicago Police Department's deadly force policy. Subject 1 approached off-duty Chicago Police

Officer A on the street, in front of a residence on the 6200 block of South Honore, produced what appeared to be a semi-automatic pistol, and announced a robbery. Though the weapon was subsequently discovered to be a replica, Officer A, the victim of an attempted armed robbery and in fear for his life, produced his personal weapon and shot the armed Subject 1. Officer A reasonably believed that such force was necessary to prevent his death or great bodily harm. Subject 1 was in the process of attempting to commit a forcible felony and by his actions threatened use of physical force likely to cause death or great bodily harm to Officer A. It is reasonable that Officer A feared for his life when Subject 1 approached him on the street armed with a replica semi-automatic handgun and intent on committing an armed robbery; and Officer A continued to have a reasonable fear when Subject 1 started to turn toward the sidewalk because Subject 1 still had the gun in his hand.