

**INVESTIGATION**

**NUMBER:** U# 10-13, Log #1034997

**INVOLVED**

**OFFICER #1:** “Officer A” (Chicago Police Officer); Male/Hispanic; 31 years old;  
On-Duty; Full Uniform; Year of Appointment – 2003

**INVOLVED**

**OFFICER #2:** “Officer B” (Chicago Police Officer); Male/White; 29 years old;  
On-Duty; Full Uniform; Year of Appointment – 2002

**OFFICER #1’S**

**INJURIES:** None reported

**INVOLVED**

**SUBJECT:** “Subject 1”; Male/Black; 37 years old

**SUBJECT’S**

**INJURIES:** One Gun Shot wound to the right flank; exit upper chest area. Fatal

**DATE/TIME**

**OF INCIDENT:** 29 March 2010, at approximately 2103 hours

**LOCATION:**

1400 N. Mayfield Ave- On the street  
**Beat 2531**

**SUMMARY OF INCIDENT:**

On 29 March 2010, at approximately 2103 hours, Officer A and his partner, Officer B responded to multiple calls of shots fired in the area of 1300-1400 N. Mayfield. The officers toured the area, and received another call about people fighting in the street with a description of a black male subject carrying a weapon, wearing a white shirt and white hat.

Officer A and Officer B returned to the area and approached the involved subject, now known as Subject 1, who was walking south on the west side of Mayfield. The officers turned south onto Mayfield, at which time Subject 1 turned and began walking north on Mayfield. Officer B and Officer A exited their vehicle and began to follow Subject 1.

As the officers followed behind Subject 1, Officer A gave verbal commands to him to stop and show his hands, during which time Subject 1 reached behind him into his rear waistband for an object. Officer B and Officer A observed the object to be a gun. Officer A told Subject 1 to drop the gun, at which time he fled on foot. During the pursuit, Subject 1 turned his upper shoulder arm to the right and swung the gun in his hand past Officer B and subsequently toward Officer A who was standing south of Subject 1, on Mayfield. Officer A drew his weapon and fired one round at Subject 1 striking him. Subject 1 continued to run and threw his gun across the intersection of Mayfield and Hirsch. Subject 1 continued to run and Officer A tackled him to the ground. Officer B approached and observed a large crowd of citizens gathering around Subject 1's weapon. Officer B approached the weapon on the ground, drew his weapon, knelt down alongside of the weapon and instructed the citizens to leave the area.

## **INVESTIGATION:**

**Officer B related to the Roundtable Panel** that he was working with Officer A beat #2531. During their tour of duty, the officers responded to approximately three calls of shots fired in the area of 1300-1400 N. Mayfield. A caller stated large group of males were in the area and one of the males described as male black wearing a white hat and white shirt had a gun. Officer B and Officer A turned westbound on Hirsch and drove toward Mayfield.

Officer B observed a male black wearing a white hat and white shirt, now known as Subject 1 walking south on Mayfield. Officer B stopped the vehicle, Officer A exited the vehicle and stated to Subject 1, "Stop Police, Stop Police!!" Officer B exited the vehicle and Subject 1 turned and began to run. Subject 1 reached behind him near his buttocks area and pulled out what Officer B described as a black hand gun. While still in motion with the gun in his hand, Subject 1 rotated his gun past Officer B and pointed the weapon at Officer A. Officer A yelled to Subject 1 to drop his weapon. Officer A fired one shot striking Subject 1, who after being wounded discarded his weapon into the street. Officer A then tackled Subject 1 to the ground. Officer B observed a large group of citizens gathering around Subject 1's weapon. Officer B approached Subject 1's weapon that was on the ground, drew Officer A weapon, placed his weapon at his side, and then ordered everyone from the area.

**Officer A related to the Roundtable Panel** that he was working with Officer B and during their tour of duty they responded to several shots being fired at the location of 1400 N. Mayfield. One call received updated the information stating that a large group of males in the area of Mayfield and Hirsch were fighting. The call also included a description of a black male wearing a white hat and white shirt with a gun on his person. The officers traveled westbound on Mayfield where they observed a black male now known as Subject 1 walking southbound.

After making eye contact with Officer A, Subject 1 turned around and began walking northbound. Officer A exited the vehicle and told Subject 1, "Stop Police!" Subject 1 began to increase his pace and reached in his (Subject 1) rear waistband pulling out a weapon. Officer A told him to drop the gun, but Subject 1 rotated the weapon in his right hand past Officer B, who was in the street, and pointed his weapon toward Officer A. Officer A yelled, "Drop the Gun" and fired one shot striking Subject 1, who after getting struck by a gunshot, tossed his weapon across the intersection. Subject 1 continued to move until Officer A holstered his weapon and tackled Subject 1 to the ground. Officer B secured Subject 1's weapon and notifications and requests for supervisors to the area were made.

**Officer C related to the Roundtable Panel** that he rode in the ambulance with Subject 1 who was being transported to Loyola Medical Center. Subject 1 was unable to provide a statement because the paramedics were working on his wound. Emergency Room Doctor A related that Subject 1 sustained one GSW to the right flank with an exit to the upper chest. Subject 1 was pronounced dead on 30 March 2010, at 0002 hours. (Att. 4)

In a statement to IPRA on 30 March 2010 the witness, **Witness 1**, stated that he, Subject 1 (involved subject), and [Name Withheld] were fighting with a Witness 2 who lived on the 1300 Mayfield block. Witness 1 stated that after the first fight, Witness 2 had someone bring him a gun and Witness 2 fired the gun several times into the air. Witness 1 stated that Witness 2 and Witness 2's brother were about to fight [Name Withheld]. At this moment, Witness 1 noticed Subject 1 was on the next block talking to someone. The police then arrived on the scene and Witness 1 shouted to Subject 1 to run. Witness 1 stated that the police told Subject 1 to freeze but Subject 1 proceeded to run. Witness 1 stated that Subject 1 had a gun on him which Witness 1 believed that he gun was kept in Subject 1's pocket. Witness 1 heard a gun shot and heard Subject 1 say, "I'm hit" repeatedly. Witness 1 described the incident as if Subject 1 was trying to throw the gun rather than point it at the police. Witness 1 stated that Subject 1 did not point his weapon but he was throwing it away. Witness 1 said he was intoxicated at the time but he was able to pay attention to everything. Witness 1 said Subject 1 was wearing a white hat, white pinstriped shirt, and gray pants and shoes. (Att. 36)

A **canvass** was conducted in the vicinity of 1400 N. Mayfield. The canvass yielded negative results. (Att. 10, 29)

**The Postmortem Examination** was performed on Subject 1 on 30 Mar 2010 by Doctor B. The examination revealed a gun shot wound on the lateral right side of the back, beneath the top of the head, to the right of the posterior midline. There was ring abrasion present about the wound. The wound course involved the skin and subcutaneous tissue in the area, the musculature of the lateral right side of the back, the seventh left rib laterally, the middle lobe of the right lung, the lower lobe of the right lung, and the fourth right rib anteromedially.

The wound course exits the body on the left side of the chest, beneath the top of the head, to the left of the anterior midline, where there is a surgically altered gunshot wound of exit. The wound entrance reveals no evidence of close-range firing.

The cause of death was a gun shot wound to the back and the manner of death was homicide. (Att. 11, 37)

**The detective supplementary report** included an account of the incident that is consistent with the Summary of Incident. Witness 2 was interviewed after being arrested for an unrelated incident. Witness 2 stated that he had gotten into a fight with Subject 1 and Witness 1. Witness 2 reported that he has known Subject 1 and Witness 1 for a long time. Witness 2 observed a police officer exit his vehicle and ask Subject 1 to "stop." Witness 2 stated that he then observed Subject 1 begin to run from the police. Witness 2 stated that at this point he ran into his residence and did not see anything, but he did hear a gunshot. Officer A and Officer B related in essence the same information as in the roundtable report and their interviews to IPRA. During the interview with Witness 1, he related in essence the same information as his interview with IPRA. Witness 1 further related that Subject 1 was not trying to point the gun at the officers, he was attempting to throw the weapon. When Witness 1 was asked how he knew Subject 1 was trying to throw the gun, he stated, "Because I don't think he would shoot an officer." (Att. #48)

**The Tactical Response Report completed by Officer A** indicated that Subject 1 “did not follow verbal direction,” “fled,” “imminent threat of battery,” “weapon,” and “used force likely to cause deadly or great bodily harm.” Officer A responded with “member presence,” “verbal commands,” “take down/emergency handcuffing,” and “firearm.” Officer A fired one round. It was reported that Subject 1 was with a black .45 caliber semi-automatic Lama pistol. Subject 1 continued to disobey verbal directions after being shot. Subject 1 threw his weapon to ground and continued to flee. Officer A used emergency take down to subdue Subject 1. (Att. 12)

**The Tactical Response Report completed by Officer B** indicated that Subject 1 “did not follow verbal directions,” “fled,” “imminent threat of battery,” “weapon,” and “used force likely to cause death or bodily harm.” Officer B responded with “member presence” and “verbal commands.” (Att. 14)

**The evidence technician photographs** depicted pictures of the scene. The evidence technician photographs of Subject 1’s body depicted a gunshot wound to his body. Subject 1’s weapon was what appeared to be a rusted silver colored automatic. (Att. #33, 38)

**The OMEC event queries and CD recordings** indicated that from 2049-2104 hours, several 911 callers stated there were multiple shots fired and there was a fight outside in the vicinity of 1400 block of Mayfield. One caller stated one male was wearing a white hat and coat. At 2050 hours, the dispatcher stated there were shots fired on the 1400<sup>th</sup> block of Mayfield. At 2051 hours, Beat 2530 and 2531 responded to the dispatch. At 2106 hours, Beat 2531 asked to send an ambulance because an offender is down, in custody, and shot by the police. Beat 2531 also stated a weapon has been found but not recovered in the middle of the street. Beat 2530 informed that the offender’s gun is cocked. At 2111 hours, a woman called stating an ambulance was needed because someone was shot. She stated police were already on the scene. (Att. 39, 51)

The **Illinois State Police (ISP) report**, dated 20 April 2010, the examination of Officer A’s weapon, Sig Sauer, model P226, 9mm Lugar caliber semiautomatic pistol, serial #U680609, was tested against the fired evidence, a 9mm caliber bullet. (Att. #34)

The **Illinois State Police (ISP) report**, dated 06 May 2010, the gunshot residue test of Subject 1 concluded that he may not have fired a weapon with either hand. If Subject 1 did discharge a firearm, then particles were removed by activity, were not deposited, or detected by the procedure. (Att. #35)

**A Report from the Illinois State Police (ISP), Division of Forensic Services**, dated 27 July 2011, the examination of the Subject 1’s weapon revealed no latent impressions suitable for comparison from weapon recovered from Subject 1. (Att.45)

**An ISP Report**, dated 07 October 2011, documented that the weapon recovered on the scene, a Llama, model Minimax 45, 45 Auto caliber semiautomatic pistol, serial #07-04-22771-95 was examined, found to be in firing condition, and test fired. (Att. 50)

The **POD map** did not depict any POD cameras in the vicinity of 1400 N. Mayfield. (Atts. #19, 20)

**In a statement to IPRA on 03 November 2011, the involved member, Officer B** related that he was working in full uniform with Officer A in Beat 2531 on the date of the incident. They responded to several calls of shots fired and disturbances in the vicinity 1400 N. Mayfield. Officer B related that they cleared the area (1400 N. Mayfield) and then returned to their routine patrol. At this time, they received another dispatch stating a battery in progress with a description of a black male wearing a white hat and coat having a gun at 1400 N. Mayfield. Officer B and Officer A went back to the location 1400 N. Mayfield and observed the described male, now known as the involved subject, Subject 1, but initially did not see the gun. Officer B and Officer A proceeded to drive parallel with Subject 1 until Officer A exited the vehicle and stated, "Police, stop". Subject 1 turned around and began walking in the opposite direction and Officer A repeated, "Police, stop". At this point, Officer B exited the vehicle and Subject 1 started to walk faster while reaching behind himself (Subject 1) and removed a black firearm. The firearm came across in a swinging motion past Officer B and pointed at Officer A. Officer A ordered Subject 1 to drop the gun and was believed to have stated, "freeze, police."

Seconds later, Officer A fired his weapon once at Subject 1 striking in the vicinity of the armpit area. Subject 1 stumbled a bit and then threw his weapon on the pavement. Officer B approached Subject 1 and tackled him (Subject 1) to the ground, because he appeared to be a threat. Officer B proceeded to kneel over Subject 1's gun due to a crowd approaching the area. Officer B later learned that Subject 1 died hours later. (Att. 40)

**In a statement to IPRA on 03 November 2011, the involved member, Officer A,** related that he was working in full uniform with his partner Officer B in Beat 2531 when he responded to the location of 1400 N. Mayfield regarding numerous calls about disturbances, a person with a gun, and people fighting. For the first call, Beat 2531 and Beat 2530 surveyed the area and found nothing. After leaving the scene, the officers received another call about people fighting and a person with a gun in the vicinity 1400-1500 N. Mayfield. The man with the gun was described black male, wearing a white top and white hat. When the officers arrived in the vicinity 1400 N. Mayfield, they saw a subject who fit the description, now known as Subject 1, standing at a street corner.

Officer A and Officer B approached Subject 1 in their squad car, at which time he began walking southbound on Mayfield, until Officer A, exited his vehicle, announced his office, and gave verbal direction to "stop, freeze, and drop the gun." Subject 1 proceeded to turn around and walk away. Officer A repeated the verbal direction to stop, to which Subject 1 fled and began to reach behind himself, near his buttocks, grabbing a weapon. Officer B was exiting the vehicle at this point. Officer A gave verbal direction to "freeze" and drop the gun, but Subject 1 drew his weapon and swung it past Officer B and pointed it towards Officer A. Seconds later, Officer A fired his weapon and struck Subject 1. After being struck, Subject 1 continued to run north, threw his weapon and Officer A tackled Subject 1 to the ground. After the struggle, Subject 1 became motionless but Officer A didn't know if Subject 1 was alive. At this point, Officer B secured the weapon and radioed for assistance.

Officer A indicated that there were no other civilians present during the time of the shooting and the area was well lit. Officer A indicated that no other force could have been used, because Subject 1 possessed a gun, and pointed the gun briefly at Officer B and directly at Officer A. Officer A related that he had no other choice but to fire his weapon because he was in fear of his life and that of his partner's (Officer B). (Att. 41)

**CONCLUSION AND FINDING:**

This investigation found that the use of deadly force by Officer A was in compliance with Chicago Police Department policy and Illinois 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 involves 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 the conditions of CPD's policy. Officer A gave Subject 1 several verbal commands to stop at which point Subject 1 began to flee. Subject 1 then obtained a weapon from his waistband and pointed the weapon at Officer A. Subject 1's actions caused Officer A to be in fear of his life as his partner's (Officer B), which resulted in Officer A firing his weapon at Subject 1 to prevent or cause great bodily harm.